THE PROPOSED DELTA/NORTHWEST MERGER: THE IMPACT ON WORKERS

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH,
EMPLOYMENT, LABOR AND PENSIONS

COMMITTEE ON
EDUCATION AND LABOR

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C O N T E N T S

THE PROPOSED DELTA/NORTHWEST MERGER: THE IMPACT ON WORKERS

Wednesday, July 30, 2008
U.S. House of Representatives
Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and Labor
Washington, DC

The subcommittee met, pursuant to call, at 10:31 a.m., in Room 2175, Rayburn House Office Building, Hon. Robert Andrews [chairman of the subcommittee] presiding.

Present: Representatives Andrews, Kildee, Wu, Holt, Loebsack, Hare, Clarke, Kline, McKeon, Boustany, and Price.

Also present: Representative Bishop (UT).

Staff present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Jody Calemine, Labor Policy Deputy Director; Carlos Fenwick, Policy Advisor, Subcommittee on Health, Employment, Labor and Pensions; David Hartzler, Systems Administrator; Sara Lonardo, Junior Legislative Associate, Labor; Meredith Regine, Junior Legislative Associate, Labor; Michele Varnhagen, Labor Policy Director; Robert Borden, General Counsel; Cameron Coursen, Assistant Communications Director; Ed Gilroy, Director of Workforce Policy; Rob Gregg, Senior Legislative Assistant; Jim Paretti, Workforce Policy Counsel; Ken Serafin, Professional Staff Member; Linda Stevens, Chief Clerk/Assistant to the General Counsel; and Sally Stroup, Staff Director.

Chairman ANDREWS [presiding]. Good morning, ladies and gentlemen.

Welcome to the subcommittee. We appreciate the attendance of the witnesses as well as the members of the public who are with us here today for what I think promises to be an edifying and interesting hearing.

In 1974, the Congress established the Employee Retirement Income Security Act, known as ERISA, and one of the best aspects of that law, which enjoyed the support of both Republicans and Democrats and I think has endured the test of time, is that a commonplace occurrence prior to 1974 became exceedingly rare, and that occurrence was that people who depended on a pension often lost it prior to 1974 for a variety of reasons. Since 1974, the loss of pension has been a rare and unfortunate experience for Americans.

Unfortunately, that situation is quite relevant to pensioners and workers in the airline industry today, and the reason that we are

here is to examine the question of whether present regulatory tools adequately or inadequately deal with protecting the interests of pensioners and workers in a very turbulent industry.

It is not simply the interest of pensioners and workers, however that interests us today. It is also the interest of the American taxpayers, because although there is not a statutory obligation to stand behind the obligations of the Pension Benefit Guaranty Corporation, I think most Americans assume that their government would in fact stand behind those obligations.

And as we have seen in recent days with the activities of Fannie Mae and Freddie Mac and other institutions over the years, in fact there appears to be a moral hazard where should the unwelcome day come when the assets of the Pension Benefit Guaranty Corporation are insufficient to meet obligations to American retirees, the federal government, in all likelihood, high probability, would step in and do something about that.

So there is a taxpayer interest here as well as an obvious interest for workers and retirees.

We are going to look with some specificity at the proposed merger between Northwest and Delta, but our purpose is broader than that. Our purpose is to understand the policy issues that are implicated by mergers in a turbulent industry, the effect of those mergers on workers, on retirees and on the taxpayers of the country.

We have asked and assembled a distinguished panel of witnesses who I think can give us some very meaningful perspectives on that issue, and what we will do is have an opening statement from my friend from Minnesota, the ranking member of the subcommittee, Mr. Kline. We will then proceed to hear statements from the witnesses and go on to questions from the members of the subcommittee.

So at this time, I will turn to my friend and colleague from Minnesota, Mr. Kline, for his opening statement.

[The statement of Mr. Andrews follows:]

Prepared Statement of Hon. Robert E. Andrews, Chairman, Subcommittee on Health, Employment, Labor and Pensions

Good morning and welcome to the Health, Employment, Labor and Pensions (HELP) subcommittee hearing on "The Proposed Delta/Northwest Merger: The Impact on Workers." We appreciate the attendance of the witnesses as well as the members of the public who are with us here today for what I think promises to be an edifying and interesting hearing.

In 1974, the Congress established the Employee Retirement Income Security Act, known as ERISA, and one of the best aspects of that law, which enjoyed the support of both Republicans and Democrats and I think has endured the test of time, is that a commonplace occurrence prior to 1974 became exceedingly rare; and that occurrence was that people who depended on a pension often lost it prior to 1974 for a variety of reasons.

Unfortunately, that situation is quite relevant to pensioners and workers in the airline industry today, and the reason that we are here is to examine the question of whether present regulatory tools adequately or inadequately deal with protecting the interests of pensioners and workers in a very turbulent industry.

It is not simply the interest of pensioners and workers, however that interests us today. It is also the interest of the American taxpayer, because although there is not a statutory obligation to stand behind the obligations of the Pension Benefit Guaranty Corporation, I think most Americans assume that their government would in fact stand behind those obligations.

Furthermore, as we have seen in recent days with the activities of Fannie Mae and Freddie Mac and other institutions over the years, in fact there appears to be a moral hazard where should the unwelcome day come when the assets of the Pen-

sion Benefit Guaranty Corporation are insufficient to meet obligations to American retirees, the federal government, in all likelihood, high probability, would step in and do something about that.

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I thank the distinguished panel of witnesses we have assembled here today and look forward to hearing their testimony today.

Mr. KLINE. Thank you, Mr. Chairman.

Good morning to you all.

I would like to begin by thanking each of today's witnesses—many of you have traveled far—for taking time out of schedules to join us.

On April 15, 2008, as we all in this room know, Delta and Northwest Airlines announced their intention to merge, subject to the approval of the companies' shareholders and federal regulators, particularly the Department of Justice. As Northwest Airlines is headquartered in Eagan, Minnesota, in my congressional district, the airline's well being and the job security of its employees are absolutely critical to me and have drawn a fair amount of my attention over the last few years and certainly the law few months.

In the context of the proposed merger, maintaining a hub at the Minneapolis-St. Paul Airport and preserving as many jobs as possible have been my principal concerns. Northwest Airlines has been a cornerstone of our community for more than 80 years and has played a positive role in Minnesota's diverse economy.

The title of today's hearing is, "The Proposed Delta/Northwest Airlines Merger: The Impact on Workers." I was interested to hear the chairman discussing perhaps a broader scope and purpose that frankly was news to me, but it is good to know it is out there.

Let me first say that in my view the best way we can mitigate any impact on workers is to have a strong airline that can sustain itself during uncertain and even very difficult economic times. The price of gasoline and jet fuel is at an all-time high, and the airline industry is facing significant challenges to its economic viability.

In recent months, airlines have been forced to make tough decisions, including reducing services and increasing ticket prices. The current energy crisis is permeating all aspects of our economy, and we need to put all options on the table to address skyrocketing gas prices, something which we have been unable to do on the floor of the House, although we are going to persist in that.

While the issue before us today deserves our full attention, it is important to note that the jurisdictional authority of the Education and Labor Committee does not, in fact, extend to cover airline mergers or labor issues in the airline industry. Labor disputes and collective bargaining rights in the airline industry are covered by the Railway Labor Act, which sets forth procedures for negotiations, mediations and arbitrations and falls under the jurisdiction of the House Transportation and Infrastructure Committee. That is not to say it is not important to examine these issues closely, but as we do so, we should be mindful of exactly what our role in this process is and what it is not.

In the context of this hearing, this subcommittee generally has oversight over issues relating to employer-provided pensions. As members of this committee will recall, when we debated and passed the Pension Protection Act approximately two years ago, we were successful in including language to protect the long-term pension security of tens of millions of Americans, including more than 10,000 Northwest Airlines pension participants, many of whom reside in my district.

I was also pleased to see Northwest, as well as other airlines, successfully emerge from bankruptcy last year, and I am particularly interested in hearing from our witnesses today what steps we have taken to ensure the security of pensions that have already been earned as well as future retirement security.

As we look forward, many decisions have yet to be made about the proposed merger. Congress does not have a direct role in the merger approval process, which is currently being vetted by the Departments of Justice and Transportation. Specifically, DOJ's Antitrust Division is reviewing the agreement to determine whether the merger would violate laws designed to preserve industry competition, among other considerations. These agencies may take months to review all the documents pertaining to the merger before making a final determination, and we will continue to monitor the situation.

In closing, in these times of economic uncertainty and the need for a strong domestic energy policy, we all want to see a robust airline industry that can maintain as many jobs as possible while looking for opportunities to increase and improve service for consumers and ensure job security and prosperity for its employees.

I look forward to hearing a broad range of perspectives in today's testimony. I am pleased we have assembled such a distinguished panel of experts in the areas of labor, industry and pensions, and I yield back the balance of my time.

[The statement of Mr. Kline follows:]

Prepared Statement of Hon. John Kline, Senior Republican Member, Subcommittee on Health, Employment, Labor and Pensions

Good morning. I'd like to begin by thanking each of today's witnesses for taking time out of their schedules to join us. I would also like to express my appreciation to Chairman Andrews for organizing this hearing.

On April 15, 2008, Delta and Northwest Airlines announced their intention to merge, subject to the approval of the companies' shareholders and federal regulators, particularly the Department of Justice. As Northwest Airlines is headquartered in Eagan, Minnesota, in my congressional district, the airline's well-being and the job security of its employees are absolutely critical to me. In the context of the proposed merger, maintaining a hub at the Minneapolis-St. Paul Airport and preserving as many jobs as possible are my principle concerns. Northwest Airlines has been a cornerstone of our community for more than 80 years and has played a positive role in Minnesota's diverse economy.

The title of today's hearing is the Proposed Delta/Northwest Airlines Merger: The Impact on Workers. Let me first say that in my view, the best way we can mitigate any impact on workers is to have a strong airline that can sustain itself during uncertain economic times. The price of gasoline and jet fuel is at an all-time high, and the airline industry is facing significant challenges to its economic viability. In recent months, airlines have been forced to make tough decisions—including reducing services and increasing ticket prices. The current energy crisis is permeating all aspects of our economy, and we need to put all options on the table to address sky-rocketing gas prices.

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As we look forward, many decisions have yet to be made about the proposed merger. Congress does not have a direct role in the merger approval process, which is currently being vetted by the Departments of Justice (DOJ) and Transportation (DOT). Specifically, DOJ's Antitrust Division is reviewing the agreement to determine whether the merger would violate laws designed to preserve industry competition, among other considerations. These agencies may take months to review all the documents pertaining to the merger before making a final determination, and we will continue to monitor the situation closely.

In closing, in these times of economic uncertainty and the need for a strong domestic energy policy, we all want to see a robust airline industry that can maintain as many jobs as possible, while looking for opportunities to increase and improve service for consumers, and ensure job security and prosperity for its employees.

I look forward to hearing a broad range of perspective in today's testimony. I'm please we have assembled such a distinguished panel of experts in the areas o f labor, industry, and pensions.

I yield back the balance of my time.

Chairman ANDREWS. Thank you, Mr. Kline, and we will now proceed to hearing from the witnesses. I am going to read a brief biography of each witness.

When the biographies are finished, we will start, Mr. Roach, with you. You will notice that there is a—for those of you who have not testified here before, there is a light box in front of you. When you begin your testimony, a green light will go on. We would ask you to take five minutes to summarize your testimony.

Without objection, your entire written testimony will be included in the record.

When you have one minute left in the five, the yellow light will appear, and when the red light appears, your five minutes are up, and we would ask you to summarize so that we can move on to interaction between the members of the committee and the members of the panel.

Robert Roach is general vice president for the International Association of Machinists. Mr. Roach started his career as a ramp serviceman for TWA and a member of Local Lodge 1056 in New York City. He is also a member of the Executive Committee of the AFL-CIO's Transportation Trades Department and the International Transport Workers Federation Executive Board and Management Committees.

Mr. Roach earned a B.S. in labor and management relations at the Empire State Labor College and most importantly is a graduate of the Labor Studies Program at the Cornell School of Labor, the ILR School—a tremendous university, Mr. Roach; well chosen.

Patricia Friend is international president of the Association of Flight Attendants-CWA and has been a United Airlines flight attendant since 1966. Ms. Friend served on the Department of Transportation's Rapid Response Team for Aircraft Security after the September 11 attacks. She is also one of eight women on the 47-member AFL-CIO Executive Council and chairs the council's Public Affairs Committee.

Ms. Friend is a member of the Board of Directors for Working America, an AFL-CIO affiliate and is a member of the National Labor Colleges Board of Trustees.

Welcome, Ms. Friend; happy to have you with us.

Rob Kight—did I pronounce that correctly, Mr. Kight?

Mr. KIGHT. Yes.

Chairman ANDREWS. Rob Kight is vice president for Compensation, Benefits and Services at Delta Air Lines. Mr. Kight began his Delta career as an analyst in 1985 and worked his way up to positions of managing director of H.R. Operations and managing director of Worldwide Benefits and Health Resources as well as the job he currently holds.

He is a trustee of the Employee Benefits Research Institute, and he earned his B.A. from Duke University.

Welcome, Mr. Kight; we are happy to have you with us.

Gary Ford, welcome back. Gary has been with us before. He is an attorney with the Groom Law Group and is testifying on behalf of Northwest Airlines. Mr. Ford has been with Groom since 1981 with the exception of a stint as general counsel to the Pension Benefit Guaranty Corporation.

Previously, he served as ERISA counsel to the Senate Committee on Labor and Human Resources. Mr. Ford earned an M.A. from Harvard University and his J.D. from Boston University.

Welcome, welcome back.

And, finally, Thomas Kochan—did I have that correctly, or Kochan? Kochan, excuse me, Mr. Kochan.

Mr. Kochan is co-director of the Institute for Work and Employment Research at the MIT Sloan School of Management. Before entering the academic world, Dr. Kochan served as a third party mediator, fact finder, arbitrator and consultant to a variety of government's private sector organizations and labor management groups. He previously taught at the Cornell University School of Industrial Labor Relations. Very good.

And Dr. Kochan received his Ph.D. in industrial relations from the University of Wisconsin.

So both Cornell and non-Cornell witnesses will be invited to speak candidly to the committee, and we will begin, Mr. Roach, with you.

Welcome to the subcommittee.

STATEMENT OF ROBERT ROACH, GENERAL VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS

Mr. ROACH. Thank you, Chairman Andrews and members of the subcommittee, for the opportunity to speak to you today.

My name is Robert Roach, Jr. I am the general vice president at the International Association of Machinists and Aerospace Work-

ers, the largest airline union in North America, and I am appearing on behalf of International president, R. Thomas Buffenbarger.

I clearly know the value of a defined benefit pension plan and the vital role of the Pension Benefit Guaranty Corporation. As a former TWA employee, my pension was frozen and later terminated. My pension from the PBGC is $212 per month for 30 years of service at TWA.

As a PBGC participant, I know the importance of ensuring this vital agency remains solvent. The purpose I am here today is to prevent Northwest Airlines IAM members from losing pension benefits promised to them by Northwest management. This would occur if the PBGC were forced to administer Northwest frozen pension plans.

The IAM has great concern about the loss of pensions if this proposed merger is successful, which is far from a certainty. With high fuel prices and limited synergies and a history of failed airline mergers, the Machinists Union and many other industry analysts are extremely skeptical about the merger's chance for success.

If the combined giant airline fails and needs bankruptcy court protection, like the two separate companies sought on the same day in 2005, the company-sponsored pension plans could be thrust upon the PBGC. This would burden the PBGC with more than $15.6 billion in liabilities on top of its $13.1 billion deficit for fiscal year 2007.

We had the opportunity to meet with officials of the PBGC yesterday, and they are very concerned about their ability to fund pensions going forward. They are looking at different strategies, such as different asset mixes, but, however, the $55 billion that they have in assets, clearly, it was stated, would not be sufficient if we continue to allow failed companies, management who fails to run an ongoing concern, to dump their garbage on to the federal government.

There is approximately $5.7 billion of unfunded liabilities between Northwest and Delta—$3 billion of the pilots' plan have already been terminated and are now currently being administered by the PBGC.

As the chairman stated, Fannie Mae and Freddie Mac are undergoing severe financial concerns, and the federal government has had to step in. Unlike Fannie Mae and Freddie Mac, the PBGC has no funding source. They cannot go into the public market and sell stocks or sell bonds. If the PBGC can no longer meet its obligations, it will fall to the federal government, the taxpayers of the United States.

If the federal government fails to act, there will be tens of thousands, if not millions, of people who will lose their pensions, who will be thrust into the city streets, the city and the state streets as homeless people. The states and the cities will have to meet its obligations to take care of those people.

This is a serious matter.

Under bankruptcy protection, Northwest froze its pension plans, preventing employees from accruing any future benefits. The frozen Northwest plans currently are $2.9 billion underfunded, and they are not making the pension payments as a result of the PPA, the Pension Protection Act, under normal circumstances, an elongated

process, which could leave the PBGC with additional underfunded liabilities.

The Machinists Union, as a result of the bankruptcy, has been granted an aggressive negotiating process to bring, going forward, the Northwest machinist members into a national pension plan, which is 113 percent funded, $9 billion in assets. If this merger continues and gets consummated, they will surely lose benefits going forward into that national pension plan. There has been no commitment on the part of Delta Air Lines to continue to fund that particular pension plan.

We were successful in keeping pensions going forward for United Airlines, US Airways as well as Northwest Airlines and Aloha Airlines. That is what we do—protect the pensions of our members.

Under this current merger proposal, benefits will be lost, health care costs will go up, and, surely, many thousands of employees would lose their jobs. Twenty-five hundred employees, it has been announced, at Northwest Airlines will lose their jobs, 3,000 to 4,000 at Delta. It has already been announced that the Minnesota office and clerical people will surely lose their jobs. The reservation agents, it has been indicated by Richard Anderson that they will lose their jobs, unless they move to Atlanta, unless 3,000, 4,000 people pick up and move to Atlanta.

Today, on CNBC, the former chairman of Delta Air Lines made it very clear to Richard Anderson that it is very important that he move this merger very quickly to eliminate the collective bargaining agreements. Mr. Anderson replied, "We will move very quickly to get into the Delta environment," which means they will fight us very hard, as they fought the AFA to keep union representation from the Delta Air Lines employees.

The Delta CEO testified before the House Transportation Infrastructure Subcommittee that when the airline combines with Northwest, Delta will maintain existing pension plans of both companies, but, again, we have had no contact with Delta Air Lines management and Northwest Airline management indicated very clearly to our representative, "They are not going to talk to us, because they don't anticipate that we are going to be around after this merger, and they will have free will to do whatever it is that they think is necessary to line the pockets of top management."

Chairman ANDREWS. Mr. Roach, if we could just ask you to quickly summarize.

Mr. ROACH. In sum, we believe that the PBGC is in jeopardy because of the potential merger. In the event this merger goes through, we believe more liabilities will come on to the airline. We believe that the Congress of the United States should act, act very aggressively, to secure the underfunding payments that are owed to the PBGC and to the employees to make sure that this does not fall on the federal government.

Thank you, Mr. Chairman.

[The statement of Mr. Roach follows:]

Prepared Statement of Robert Roach, Jr., General Vice President, International Association of Machinists and Aerospace Workers

Thank you, Chairman Andrews and members of this Subcommittee for the opportunity to speak to you about the important issue of worker's pensions. My name is Robert Roach, Jr., General Vice President of the International Association of Ma-

chinists and Aerospace Workers (IAM), the largest airline union in North America. I am appearing on behalf of International President R. Thomas Buffenbarger. The IAM represents more than 160,000 active and retired airline workers in almost every job classification, including flight attendants, ramp service workers, mechanics, customer service, reservation agents and office employees.

I know the value of a defined benefit pension and the vital role of the Pension Benefit Guaranty Corporation (PBGC). As a former TWA employee, my pension from the PBGC is $212.00 per month for thirty years of service. The TWA employee pensions were frozen and later terminated. This amount reflects decades of poor airline management decisions and failed mergers. As a participant of the PBGC, I know the importance of ensuring this vital agency remains solvent. Tens of thousands of former airline employees receive reduced pension checks from the PBGC because of early terminations.

I am here to try and prevent IAM members from Northwest Airlines from losing pension benefits promised to them by Northwest management. This would occur if the PBGC were forced to administer Delta and Northwest's frozen pension plans. In addition, if the PBGC were forced to assume an additional $5.7 billion in pension shortfalls from Delta and Northwest on top of the $3 billion of pension shortfalls it has already absorbed from Delta's terminated pilot pensions, it could cause a collapse of the PBGC.

Pension failure

The IAM has great concern about the loss of pension benefits if the proposed merger is successful, which is far from a certainty. With high fuel prices, admittedly limited synergies and a history of failed airline mergers, the Machinists Union and many industry analysts are extremely skeptical about this merger's chance for success. If the combined giant airline fails and needs bankruptcy court protection, like the two separate companies sought on the same date in 2005, the frozen company-sponsored pension plans could be thrust upon the PBGC. This would burden the PBGC with more than $15.6 billion in liabilities on top of its $13.1 billion deficit for fiscal year 2007.

The steel industry dumped $9.4 billion of liabilities on the PBGC, followed by $18.6 billion in airline pension shortfalls the PBGC has already absorbed. Faced with the possible collapse of pensions in the automotive manufacturing industry, the PBGC's future looks very unstable.

The federal government is scrambling to rescue the grossly underfunded Fannie Mae and Freddie Mac. The same may be needed for the PBGC. Unlike Fannie Mae and Freddie Mac, who have access to the public markets as a source of revenue, the PBGC's only funding comes from premiums paid by plan sponsors and the assets of the terminated plans that it administers.

If the PBGC can no longer meet its obligations and it doesn't receive a federal bailout, states and cities will be greatly burdened by current and future retirees seeking aid through welfare programs. Pension sponsors, not taxpayers, should be required to live up to their pension promises.

Congress created the PBGC to act as a safety net for companies that could not meet their pension obligations. Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) stated that part of the PBGC's mission is "to encourage the continuation and maintenance of defined benefit pension plans." A merger between Delta and Northwest Airlines jeopardizes not only the vested and future defined pension benefits earned by the airlines' employees, but also puts the financial integrity of the PBGC itself at risk.

Northwest pensions

When Northwest entered bankruptcy, the majority of IAM members were earning pension benefits in a company-sponsored defined benefit pension plan. Under bankruptcy protection, Northwest froze all of its pension plans, preventing employees from accruing any future pension benefits. The frozen Northwest plans are currently $2.9 billion underfunded.

As a result of difficult negotiations and our members' sacrifice in other areas, Northwest's IAM-represented employees are the only group at the airline with an active defined benefit pension plan.

The contribution rate paid into the IAM National Pension Plan provides a known, PBGC-insured benefit. Benefits are expected to increase in subsequent non-bankruptcy contract negotiations. Additionally, benefits have a tendency to increase as the plan redistributes overfunding to participants. This is in contrast to airline sponsored plans that siphoned any overfunding years ago to benefit the carriers, not the plan participants, causing the crisis that resulted in frozen and terminated plans.

Delta pensions

Delta employees in comparable job groups to Northwest's IAM members also had their defined benefit pension plan frozen when their company was in bankruptcy. However, because these Delta employees were not members of the Machinists Union they had no options but to accept Delta's unilateral decision. Delta's frozen pension plans are underfunded by $2.8 billion, in addition to the terminated pilot pension that was $3 billion underfunded when it was taken over by the PBGC.

Delta employees are currently earning no pension plan benefits. They have only a 401(k) defined contribution plan that puts all the investment responsibility and risks on the employee. As this committee knows, defined contribution plans are not insured by the PBGC and provide no guaranteed benefit. What benefits there may be upon retirement are susceptible to market fluctuations and personal investment choices. That is why a defined benefit pension is so important, as Congress clearly recognizes by their participation in such a plan.

Delta's empty promises

Delta's CEO testified before the House Transportation and Infrastructure's Aviation Subcommittee that when his airline combines with Northwest, Delta will "maintain the existing pension plans of both companies." [1] However, he has been silent on how he is going to continue the defined pension benefits IAM members are currently accruing at NWA and extend it to their Delta counterparts.

The only way for Delta CEO Richard Anderson to keep the promise he made to the Aviation Subcommittee is through Delta's participation and contributions to the IAM National Pension Plan. That is only possible if the IAM is allowed to extend our representation to Delta employees.

The Machinists Union has an aggressive organizing campaign underway at Delta, but CEO Richard Anderson's steadfast refusal to remain neutral and the airline's historically aggressive anti-union stance may cause Northwest employees to lose a pension plan for the second time. This task is even more daunting because airline workers organize under the Railway Labor Act (RLA). Under the RLA, 50%+1 of eligible employees in a group must cast a ballot for an election to be valid. For example, if there is a union representation election and the Machinists Union receives 100% of the votes cast, but only 50% of the eligible workers participate by casting ballots, the workers will remain non-union. If that happens in an election as a result of the Delta/Northwest merger, Northwest workers will become at-will employees, lose their defined benefit pension plan and more than 60 years of collective bargaining gains.

Delta and Northwest have made commitments to employees, but these commitments are unenforceable and the airline will not be held accountable. If the combined airline wants to make true commitments, they should stop interfering with Delta employees' right to organize, and make their commitments part of collective bargaining agreements that protect employees at the combined carrier.

Seniority

Delta has said that it will integrate seniority fairly, and that they are required to do so under the law. But what does "fairly" mean? There are no less than five recognized methods for "fair and equitable" integration of airline seniority lists.

1. The surviving group principle, where the acquiring company's employees receive seniority preference over the acquired employees;
2. The follow-the-work-principle, were seniority is allocated by a ratio of what assets each individual airline contributed to the combined company;
3. The absolute rank principle, where employees retain their respective rank on the newly mergers seniority list;
4. The ratio-rank principle, where a ratio of the employees of each group to be merged are assigned places on the combined seniority list according to a ratio of total employees.
5. The length of service principle, where all employees are combined by their current seniority date, regardless of which airline they came from.[2]

Fairness is in the eye of the beholder, and what Richard Anderson deems fair is not important. We need to focus on what employees consider to be fair.

The merger

The Northwest-Delta merger proposal will reduce service, increase fares, eliminate jobs and negatively impact communities across the country. It is ridiculous to

[1] Testimony of Richard Anderson, May 14, 2008, House Transportation and Infrastructure Committee, *http://transportation.house.gov/hearings/Testimony.aspx?TID=6018&NewsID=609*

[2] How Arbitration Works, Sixth Edition Elkouri, Elkouri, Reuban; BNA Books, p.868-870

imagine a larger, combined airline can be profitable when both of these individual airlines are already shedding jobs, planes and routes in order to survive.

A generally unspoken consequence of a Delta-Northwest merger will be the loss of defined pension benefits for 12,500 IAM members at Northwest Airlines. The Machinists Union has been aggressive in negotiating defined benefit pension plans for our members in the airline industry. In spite of airline-sponsored pension plans being terminated or frozen, the IAM has successfully negotiated the multi-employer IAM National Pension Plan for our members at several airlines, including United Airlines, US Airways and Northwest Airlines.

The IAM National Pension Plan is a completely separate entity from the Machinists Union, and is overseen by a Board of Trustees made up of an equal number of employer and union-appointed members.

The IAM National Pension Plan has more than 1,750 contributing employers, 113,000 active participating members and $9 billion in assets. Unlike the few other pension plans remaining in the airline industry, the IAM National Pension Plan is 113% funded and provides real retirement security for our members.

The IAM National Pension Plan is designed for people working under IAM contracts. If this merger is approved over our objections, we hope to extend the benefits of the IAM National Pension Plan when our IAM members combine with Delta's employees. However, if Delta launches another assault on their employees' legally protected right to collectively bargain and the IAM does not represent employees at the combined carrier, as Delta hopes, workers will no longer be able to participate in the IAM National Pension Plan.

Summary

Pensions are not perks offered by airlines—they are deferred compensation for decades of maintaining a 365-day-a-year, 24-hour-a-day operation. Our members' pension benefits are proudly earned through hard work at reduced wages in exchange for promised retirement income.

Northwest's IAM-represented employees have enjoyed the benefits of a secure union work environment for more than 60 years. They labored for the day when they could retire with some dignity and financial security. The ill-advised Delta-Northwest merger will jeopardize everything they have worked for while destroying two once-great airlines and threatening the solvency of our nation's pension insurance agency.

I look forward to your questions.

Chairman ANDREWS. Mr. Roach, thank you very, very much for your testimony.

Ms. Friend, welcome to the subcommittee. We are looking forward to hearing from you.

STATEMENT OF PATRICIA FRIEND, INTERNATIONAL PRESIDENT, ASSOCIATION OF FLIGHT ATTENDANTS

Ms. FRIEND. Thank you.

Thank you, Chairman Andrews, for holding this vital hearing on the impact on employees of the proposed merger of Northwest and Delta Air Lines. We especially want to thank the committee for inviting us to testify today and giving voice to the concerns of the flight attendants of these two great airlines.

Before going into the specifics of the direct impact of this merger on the Delta and Northwest flight attendants, I would like to first raise a broader issue that confronts airline employees in a merger situation. While some protections are in place for consumers and communities, there are virtually no protections for airline workers other than those that have been negotiated in union contracts.

This has not always been the case. There were many important protections in place for airline workers prior to the Airline Deregulation Act. The Allegheny Mohawk Labor Protective Provisions were made a condition of government approval of virtually every airline merger. These LPPs contained extensive protections de-

signed to shield workers from an unfair share of the burden resulting from airline mergers.

But airline executives successfully lobbied for an end to the LPPs because, as they argued, these matters are better left to the collective bargaining process. Union contracts do provide a level of protection for those employees covered by such an agreement, but there is no protection for non-union airline employees like the flight attendants at Delta Air Lines.

The Northwest flight attendants joined AFA just two years ago, but they have been union members for over 60 years. Their proud tradition of union representation is now threatened by management's use of this merger process to attempt to eliminate their collective bargaining agreement.

Our primary concern is that Delta executives are using this merger to eliminate the rights of employees to have a seat at the table when the airline is fully merged with Northwest. Scheduling work rules, health care benefits, retirement security and retiree health care, vacations, seniority protections and furlough protections are provided and governed by the AFA contract at Northwest Airlines. Absent a union contract, these vital components of a flight attendant career will be left in the hands of someone in a Delta Air Lines corporate department—a distant party who does not represent the interests of flight attendants.

Northwest and Delta Air Lines management both froze contributions to their flight attendant pension plans when they entered bankruptcy. In the Northwest AFA contract, however, the remaining plan is protected in writing. The AFA contract establishes a Northwest Airlines flight attendant retirement board, providing AFA members there a legally binding voice in their retirement security. Importantly, a defined contribution plan was negotiated to replace that defined benefit plan and is secured in writing.

Delta's flight attendant policy manual gives no guidance in this vital area, effectively defaulting to a plan controlled by third parties.

The Northwest flight attendant medical benefits plan, prescription drug plan and retiree health care plan are spelled out in detail in the AFA contract. These medical plans are maintained and protected through the duration of the Northwest AFA contract. Delta flight attendants do not enjoy the same protections as their colleagues at Northwest and default to whatever plan management chooses.

Flight attendants face one other devastating threat in this merger. This merger will most likely resurrect past efforts by Northwest executives to outsource our best jobs to flight attendants based outside the U.S.

But I am testifying here today to express our outrage over Delta Air Lines's coercive campaign to interfere with its flight attendants' right to freely select a bargaining representative under the RLA. In my 40 years in this industry, I have never witnessed a more intense and heavy handed anti-union campaign as the one recently waged by Delta management during the Delta flight attendants representational election. Delta's intense and overwhelming anti-union campaign was a voter suppression campaign tailored to take

advantage of the onerous organizing rules that are applied by the NMB.

We have filed interference charges with the National Mediation Board asking as a remedy a rerun of the election using a process that will more accurately reflect the wishes of the Delta flight attendants. But we are very skeptical that the NMB will rule against management's anti-union campaign. This NMB has repeatedly ruled on the side of the employer.

In the context of this merger, the company's anti-union tactics take on added urgency. This merger should not be permitted to become a vehicle for union busting. Using this merger as an opportunity to destroy unions provides these airlines and all who would follow with an opportunity to drive down wages, work rules and benefits for all airline employees. If Delta is a non-union carrier, as well as the largest carrier, they will be poised to set in motion an unprecedented remaking of the entire airline industry that will destroy airline jobs as a stable and secure middle-class career once and for all.

And, finally, I urge you and the members of this committee to remember the hundreds of thousands of airline employees across this country. We are the ones who have the most to lose, and we have the least protection. Most importantly, do everything within your power and don't let them destroy the one thing we have protecting us: our unions.

Thank you.

[The statement of Ms. Friend follows:]

Prepared Statement of Patricia A. Friend, International President, Association of Flight Attendants—CWA, AFL–CIO

Thank you, Chairman Andrews for holding this vital hearing on the proposed merger of Northwest and Delta Airlines and the merger's impact on employees. My name is Patricia Friend and I am the International President of the Association of Flight Attendants—CWA, AFL-CIO. AFA represents over 55,000 flight attendants at 20 U.S airlines and is the largest union in the world representing flight attendants. We especially want to thank the Committee for inviting us to testify today and giving voice to the concerns of the flight attendants of these two great airlines. Flight attendants and other employees have kept these airlines flying during the good times * * * and through some very difficult times. We appreciate having a seat at this table to testify and to share our views and our concerns about what this merger could mean to them.

This merger between Northwest and Delta has drawn significant attention from the media, communities served by both carriers and here on Capitol Hill. The attention being paid to what will create the largest airline in the world is appropriate * * * and necessary. This announced merger has led to continued speculation about which airlines will be next to merge and airline management efforts to accomplish further consolidation. And, although the merger drumbeat started much earlier as airline executives sought greater profits following the recent epidemic of bankruptcies, airline CEOs continue now to call for greater consolidation in light of the exploding cost of fuel.

I'm especially pleased of the focus of today's hearing—the impact of this merger on the employees at what could become the world's largest non-union airline. As you well know, and which various other hearings have highlighted, consumers are frightened that this airline merger in particular, and further consolidation of the industry in general, will lead to much higher fares and reduced service. Hundreds of communities are rightfully concerned that this merger and others could lead to the loss of valuable air service as the evolving mega-carriers shed routes in hopes of consolidating their profits. Delta has already announced significant cutbacks in flights at their Cincinnati hub. But no hearing to date has focused exclusively on the impact to the tens of thousands of Northwest and Delta flight attendants and I applaud you for making that the sole focus of this hearing.

Before going into the specifics of the direct impact of this merger on the Delta and Northwest flight attendants, I'd like to first raise a broader issue that confronts airline employees in a merger situation. While some protections are in place through the regulatory approval of airline mergers from the Department of Justice and Department of Transportation for consumers and communities, there are virtually no protections for airline workers in this merger other than those that have been negotiated in any union contracts. There has been little attention paid to the extreme upheaval that mergers create for the thousands of airline employees who find themselves unemployed or whose lives are disrupted.

This has not always been the plight of airline workers. There were many important protections in place for airline workers prior to the Airline Deregulation Act of 1978; the Allegheny-Mohawk Labor Protective Provisions (commonly know as the LPPs) were made a condition of government approval of virtually every airline merger. The LPPs contained extensive and specific protections—like displacement and relocation allowances, wage protections, transfer and seniority protections, layoff protection, and others—as part of a standardized set of provisions designed to shield workers from an unfair share of the burden resulting from airline mergers.

But no substantial protections from our federal government exist today to cushion airline workers involved in mergers. After the deregulation of the airline industry, airline executives successfully lobbied for an end to the LPPs because, as they argued at the time, these matters are 'better left to the collective bargaining process.' Union contracts provide a level of protection for those employees covered by the agreement, but there is little to no protection for non-union airline employees—like the fight attendants at Delta airlines.

Those same employers who wanted to leave these protections to the bargaining process now spend millions of dollars on union busting, trying to prevent their employees from attaining the right to bargain, or to strip that right from those who have had it for decades. And today, many of those same employers who hold press conferences to trumpet the fact that their mergers will not cause any layoffs often refuse to agree in writing to such guarantees.

Of all the well-developed rules referred to prior to deregulation as Allegheny-Mohawk LPPs, only one exits today—the provision establishing basic seniority protections in the event of a merger. And, that provision was only recently resurrected and included in last December's Omnibus Appropriations bill after the advocacy of AFA and the strong support of Representative Russ Carnahan, Senator Claire McCaskill and this Congress.

Earlier attempts by Congress to provide protections for airline employees during mergers, provides an instructive history in the current context. Congress included the Airline Employee Protection Program (EPP) in the Deregulation Act to assist adversely affected employees. At least 40,000 employees lost their jobs in the wake of deregulation. The EPP was supposed to provide for both monthly compensation and first-hire rights at other airlines. However, displaced employees never received the benefits Congress promised and funding was never authorized for the benefits, turning the whole program into a cruel joke for airline employees in desperate need of a life-line.

As we look at the impact of this merger on the workers at Northwest and Delta, perhaps it is time to revisit the concept of employee protection from the Deregulation Act. No, we are not proposing to re-regulate the industry today; that's a worthy discussion for a different hearing that we welcome and we would encourage Congress to hold. But we do think that—at a minimum—something needs to be done to shield workers from the harshest effects of this merger and any future mergers.

We all know that the minute this merger is approved, executives will be looking for cost saving 'synergies' that will make the new airline ever more profitable. Many of the synergies that the executives will likely turn to first are precisely the steps that will harm the interests of the workers, such as furloughs, base closures, fleet reductions and, perhaps worst of all, outsourcing.

In order to achieve those cost savings, Delta management has already made it clear that they will do everything in their power to first make sure there is no union in place to protect the hard earned benefits of the currently unionized Northwest flight attendants, which as a whole are much better than the non-union Delta flight attendants. This merger seriously jeopardizes the collective bargaining rights of all the Northwest employees who have fought for and won the legal right to have union representation. Virtually all employees at Northwest have chosen to join a union. Delta, on the other hand, has only one major workgroup that is unionized—its pilots.

For several years, Delta flight attendants have been working diligently to secure a better future through joining AFA and eventually securing a legally binding contract. Their hard work paid off earlier this year when they filed cards from over 50%

of all the Delta flight attendants requesting an election to join AFA. This spring, the National Mediation Board (NMB) mailed voting instructions to Delta flight attendants and after a four week window the voting ended on May 28th.

I am testifying for AFA here today to also express our outrage over Delta Air Lines' ubiquitous and coercive campaign to interfere with its flight attendants' right to freely select a bargaining representative under the Railway Labor Act (RLA). In my 40 years in the airline industry, I have never witnessed a more intense and heavy-handed anti-union campaign. Since the NMB mailed voting instructions to the Delta flight attendants on April 23, Delta management flooded the flight attendant crew lounges with supervisors, and wallpapered its facilities with anti-union posters urging flight attendants to not vote. Or as Delta puts it: "GIVE A RIP—DON'T CLICK, DON'T DIAL."

Delta's intense and overwhelming anti-union campaign was simply a voter suppression campaign that was tailored to take advantage of the onerous organizing rules that are applied by the NMB for representational elections governed by the RLA. Although the RLA makes no mention of such an extraordinary requirement, the NMB rules state that in order for a representation election to even be considered valid, a majority of all eligible voters must turn out to vote in the election. If 95% of flight attendants who cast a vote want to join AFA but only 49.9% of all the eligible flight attendants cast a vote, then the election is invalid.

In effect, a person who chooses not to cast a vote in an NMB election is counted as a "no" vote, encouraging management to focus their efforts on voter suppression in every election. Anyone appearing on the voter eligibility list, for whatever reason whether it through illness, apathy or forgetfulness, who does not cast their ballot in the allotted time frame, is counted as having voted against the union. In a sense, the voting starts with all 100% of eligible voters casting a "no" vote for union representation and the union must get enough people to "switch" their votes to yes, by participating in the election. I ask the members of the Committee to consider if they, or most of their colleagues, would be sitting here today if our Congressional elections were governed under the same onerous rules, where turnout is more important than the actual votes cast.

During the election period, Congressional oversight and harsh questioning by your colleagues of Delta CEO Richard Anderson at other hearings, had little deterrent effect on Delta's management when it came to their anti-union campaign. Delta CEO Richard Anderson's promise to Congresswomen Betty Sutton at a hearing before the Antitrust Task Force of the House Judiciary Committee on April 24 that the Company would "follow the NMB's election rules" during this election was clearly an empty one. To the contrary, over the four-week voting period in the representational election, Delta effectively overwhelmed the flight attendants' ability to choose a representative freely.

Delta used every method available to them to pressure the Delta flight attendants, when receiving their NMB ballots in the mail, to "Give it a rip" and destroy the ballot. Through supervisor intimidation, massive pressure at the workplace, a message delivered through every imaginable communication including the computers used to sign in for flights and sowing confusion about voter eligibility, Delta was successful in suppressing the turnout of Delta flight attendants. In the end, 99% of the Delta flight attendants voting in the election cast ballots for AFA as their collective bargaining agent. However, because Delta was successful in suppressing the vote, only 40% of Delta flight attendants cast ballots in the election, thereby making the election invalid.

In light of Delta management's glaring violations of the rights of their employees, AFA has filed interference charges with the National Mediation Board and to order a re-run of the election, using a process that will more accurately reflect the wishes of the Delta flight attendants. I have provided a copy of the filing with my testimony, which goes into greater detail in regards to the anti-union campaign waged by Delta management.

We remain skeptical however that the NMB will rule against the harsh anti-union campaign. This NMB has repeatedly ruled on the side of the employer in such cases. We have repeatedly witnessed first hand the efforts of this NMB to ignore the intent of the RLA to level the playing field so that employees could be allowed to choose union representation free from employer intimidation. Again, we have outlined in great detail in our NMB filing (accompanying this testimony) the actions by this NMB in the Delta flight attendant union election that are troubling, including arbitrarily changing the time frame for the election after the initial voting period was announced and AFA had produced all relevant voting material information.

The most troubling action was recently taken when the NMB announced proposed changes to their rules governing union certification in an airline merger. Their proposed rules now require a "substantial" majority for union recognition. This "sub-

stantial" majority would be left to the board's discretion and they would not be allowed to consider signed authorization cards by employees when determining if there is a "substantial" majority. This would potentially open the door for the NMB to disallow a voluntary recognition of union representation based on a majority of employees signing authorization cards—even if it was agreed to by the union and the employer. But these last minute efforts to change the rules in the middle of the game should not be shocking considering that the current Chair of the NMB is the former Vice President of Government Affairs for Northwest Airlines.

In the context of this merger, the company's anti-union tactics take on added urgency; the merger should not be permitted to become a vehicle for union busting. Airline executives have realized the opportunity that this merger presents: not just a chance to prevent thousands of non-union employees from gaining a union, but also a chance to eliminate the unions that already provide protection for their members at Northwest Airlines.

Northwest flight attendants joined AFA two years ago, but have been union members for 60 years. Their proud tradition of union representation is threatened by management's use of this merger process to attempt to eliminate the Northwest flight attendants collective bargaining agreement, which, in turn, poses a real threat to the job security for thousands of flight attendants, and the superior benefits, work rules and protections that they have gained through years of collective bargaining.

We viewed the recently concluded Delta flight attendant representational election as the first line of defense for the collective bargaining rights of the Northwest flight attendants. If the Delta flight attendants had been successful in their efforts to gain a voice in their workplace then we could have focused on negotiating a contract that would have provided the best work rules and benefits for the two groups. A second election will be necessary to determine the future of the collective bargaining rights of the newly combined and merged Delta Airlines. Based on the number of Delta flight attendants who have signed AFA authorization cards, and the number of Northwest flight attendants who are already AFA members, AFA has the support of a solid majority of the combined workforce. Based on Delta's past union busting efforts and stated goal to become the world's largest non-union airline, we have no doubt that they will use every tool at their disposal to make sure that the flight attendants of the new airline have no collective bargaining rights and are stripped of their contractual protections.

Delta executives have not been shy about their efforts to prevent the employees from forming unions. In fact, in a meeting with AFA Northwest leadership, Northwest management stated flatly that there would not be a seat at the table for the flight attendants in the merger discussions. He went on to state that the current Delta was a non-union company and that the "New Delta" had every intention of remaining a non-union company; Delta planned to defeat the union and prevent the flight attendants from having, or keeping, the bargaining rights that are essential in the face of this merger. Delta has already demonstrated that they will spread disinformation and make every effort to prevent Delta flight attendants from casting ballots. They've even gone so far as to state that they supported and were instrumental in having the seniority integration protections passed by Congress in the Omnibus Appropriations late last year, even though they spent months opposing inclusion of the language. I would ask this Committee: what is wrong with our system when the majority of these flight attendants want union representation and yet face such great barriers to achieve that goal?

Bargaining rights are paramount if the flight attendants are to have an opportunity to negotiate over the impact this merger will have on their work lives. Our primary concern is that Delta executives will use the merger to eliminate the rights of employees to have a seat at the table when the airline is fully merged with Northwest.

Using this merger as an opportunity to destroy unions provides these airlines, and all who would follow, with an opportunity to drive down wages, work rules and benefits for all airline employees. It can create a domino effect that will force even unionized carriers to match those drastic cuts in order to compete. They will set industry standards back to levels we have not seen in decades. If Delta is a non-union carrier, as well as the largest carrier, they will be poised to set in motion an unprecedented remaking of the entire airline industry that will destroy airline jobs as a stable and secure middle class career once and for all.

Collective bargaining agreements provide a level of legally binding protections negotiated and enforced by a flight attendant union, company officials and with oversight from federal agencies. Employees form the union and negotiate a contract based on their priorities. Absent a union and a legally binding contract, manage-

ment is given extraordinary rights, particularly during a merger in the airline industry with limited federal regulation protections.

The unique operations of an airline expose employees to a series of market driven and regulatory changes. For instance, union contracts provide clear and fair procedures that protect airline employees when a company opens or closes a base or domicile, which is commonplace in this industry. What happens when that contract goes away? Without a contract and negotiations, company policy can then change with the issuance of a memo. Management can arbitrarily select which employees must move to a new location and which stay.

Furloughs occur in our industry in large part due to economic downturns and most recently because of spiking jet fuel costs. AFA contracts have long provided protections in this area, ensuring that the company first offer voluntary leaves of absence or voluntary furloughs and then enforces a fair process when management forces involuntary furloughs. The Northwest AFA contract protects—in writing—Northwest flight attendants when this process occurs. Delta's policy manual can be changed by management at will and at any time. Delta flight attendants deserve better.

Scheduling work rules, health care benefits, retirement security and retiree health care, vacation, seniority protections and furlough protections are provided and governed by the AFA contract at Northwest Airlines. Absent a union contract, these vital components of a flight attendant career will be left in the hands of someone in a Delta Air Lines corporate department, a distant party who does not represent the interests of flight attendants.

Northwest flight attendants benefit from superior protections in their legally binding contract, particularly in the areas mentioned above. Delta flight attendants operate under a policy manual which has no enforcement provisions and is not legally binding on the company. Delta management has changed the policy manual for flight attendants, can change the flight attendant policy manual at will, and will change the flight attendant policy manual in the future should their plan to become the largest non-union carrier prevail.

Northwest Airlines and Delta Air Lines management froze contributions to their flight attendant pension plans when both carriers entered bankruptcy. In the Northwest AFA contract however, the remaining plan is protected in writing along with applicable federal law protections. The AFA contract establishes a Northwest Airlines Flight Attendant Retirement Board, providing AFA members there a legally binding voice in their retirement security. Importantly, a defined contribution plan was negotiated to replace the pension plan and is secured in writing. Delta's flight attendant policy manual gives no guidance in this vital area, effectively defaulting to a plan controlled by third parties.

The Delta flight attendant pension plan contains a social security offset deduction. The Northwest pension plan contains no social security offset deduction.

The Northwest flight attendant medical benefits plan, prescription drug plan and retiree health care plans are spelled out in detail in the AFA contract. The level of coverage and cost containment language are secured in writing. These medical plans are maintained and protected through the duration of the Northwest AFA contract. Delta flight attendants do not enjoy the same protections as their colleagues at Northwest and default to whatever plan management wants. If Delta flight attendants remain non-union in the merged airline, what happens to these protections?

Delta flight attendants deserve better and Northwest flight attendants deserve to keep their protections.

Flight attendants face one other devastating threat in this merger, one that no other work group is likely to encounter. This merger will most likely resurrect past efforts by Northwest executives to outsource our best jobs to flight attendants based outside the U.S. Such outsourcing of flight attendant jobs on international routes to foreign nationals will resurface if the new Delta achieves their goal and become a industry standard practice. When Northwest first proposed flight attendant outsourcing during bankruptcy, a bipartisan group of House and Senate members rose up to decry such a move as jeopardizing aviation safety and security. With a union fighting to protect the Northwest flight attendants jobs, and support from members of Congress, Northwest management backed off such a proposal and thousands of good paying jobs remained for Northwest flight attendants. Only if the union retains its legally binding bargaining rights following the merger will the flight attendants have the legal standing to continue the fight against such outrageous ideas as outsourcing flight attendant jobs. What other ideas will an unchallenged Delta management team attempt to impose on its non-union flight attendants? Many of the current Delta executives were involved in earlier outsourcing attempts when they were at Northwest Airlines.

I urge the members of this Committee to send a strong and clear signal to Northwest, and especially to Delta executives, that they must not use this merger as a means to destroy the collective bargaining rights of flight attendants. I would urge this Committee to use its good offices to monitor Delta management as this merger progresses so that they do not engage in election activities similar to those of the past elections—actions that violated the spirit of the Railway Labor Act, even if the NMB ruled they did not violate the letter of the law. And finally, I hope that you will use your influence to persuade Delta management to remain neutral in the upcoming representation election. If they are successful in their goal to keep the "new Delta" non-union, we could see this merger as the beginning of the end for the airline industry as a source of decent and respectable jobs.

I urge you to remember the hundreds of thousands of airline employees across this country. Keep us in mind as you review this merger and the impact that it will have on our lives and our families. We are the ones who have the most to lose; and we have the least protection. Most importantly, don't let them destroy the one thing we have protecting us—our unions.

Chairman ANDREWS. Ms. Friend, thank you very much for your participation here this morning.

Mr. Kight, welcome to the subcommittee. We look forward to your testimony.

STATEMENT OF ROB KIGHT, VICE PRESIDENT, COMPENSATION, BENEFITS, AND SERVICES, DELTA AIR LINES, INC.

Mr. KIGHT. Thank you.

Chairman Andrews, members of the subcommittee, Delta welcomes this opportunity to appear before you today to discuss the impact on employees and retirees of both companies resulting from the proposed Delta and Northwest merger.

With your permission, I would ask to enter into the record a statement of support for the merger from the Delta Board Council, a group of frontline employees elected by their peers in each major work group to represent them with management——

Chairman ANDREWS. Without objection.

["The Evolution of Non-Contract Delta Air Lines Retiree Benefits," prepared by Delta Air Lines Retirement Committee, April 2008, follows:]

DALRC
RETIREMENT COMMITTEE

The Evolution of Non-Contract Delta Air Lines Retiree Benefits

Prepared by:
Delta Air Lines Retirement Committee

April 2008

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RETIREMENT COMMITTEE

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The Evolution of Non-Contract Delta Air Lines Retiree Benefits

An overview of the on-going reduction of non-contract Delta retirees' benefits

Delta Air Lines Retirement Committee (DALRC) has developed the following document to provide an overview of the evolution of the non-contract, Delta retiree benefits. For nearly two decades, the early retirement benefit packages promised by Delta Air Lines have been continually stripped away from the non-contract group of retirees. Because Delta is not contractually obligated to keep the past promises made to retirees, the global airline's new management team continues to use its "direct relationship" with the non-contract retiree group to increase cost and reduce the benefits provided to them. This direct relationship is Delta's "promise" to retirees in lieu of a written agreement - an agreement that retirees at every other major airline in the industry have today.

The time is past due for Delta to provide a written guarantee to the non-contract retirees regarding their current and future retirement benefits. Non-contract retirees need to get back the stability they once enjoyed regarding one of the most important aspects of their lives during retirement, good health care coverage at an affordable cost. The Delta non-contract retirees earned these benefits through decades of service to Delta Air Lines. They deserve the same stability that retired persons at all other major airlines have through a written agreement—even through financially challenging times.

Background

Delta non-contract retirees have been given the option to participate in many different early retirement programs over the past 15 years. For many Delta employees, the programs were very attractive because they allowed the employee, age 52 and older, to retire with an insurance program that provided a good benefit package at an affordable cost. It also provided the retirees with a sense of security of having insurance in their retirement years.

These early retirement programs were offered as minimal or no cost options. These cost options, along with the reductions in their income, were key factors Delta employees considered prior to making a decision whether or not retirement was a realistic financial option. Moreover, the retiree candidates considered the history of how retirees had been treated in the past by Delta's management team. Delta's track record for the "direct relationship" and company culture, having existed for decades, was documented to show that it treated people fairly and the company's leadership did the right thing when it came to how it valued members of the "Delta Family"; therefore, there wasn't a reason to require them to put their programs in writing.

> Delta continues to use the non-contract retirees' retirement benefits to fund the financial shortcomings of the airline.

A Change in Management

Delta's track record for its retirees was stellar between 1977 and 1993. For more than 15 years, the out-of-pocket cost remained the same. The situation began to change in 1993 when the out-of-pocket cost was increased from $750 to $1,000 for an individual and from $1,500 to $2,000 per family. Despite this, Delta continued to have exceptional health care benefits for their employees and retirees, due in large part to Delta's ability to keep their cost down with regard to labor relations and the implementation of the 150 percent cap on cost of health care. Delta had only one large unionized workforce on the property, the pilot union, and this allowed them to save billions of dollars over the decades and provided them with the money to offer excellent pay and benefits to the non-contract employees and retirees.

Although Delta continues to have a largely non-unionized workforce, today the out-of-pocket cost for health care has gone to $3,000 per individual and $6,000 per family with increases occurring yearly in almost every area of the coverage plan while the plan design declines. This includes the termination of 100 percent "in network" coverage for services and adoption of a four-tiered drug program, the only one the DALRC is aware of in the industry. One key reason for this decrease in benefits and increase in cost is that the common practice of benchmarking against other airlines benefits has been ignored by the leaders of Delta today. Delta continues to use the money set aside for non-contract retirees' benefits as a "slush fund" from which it can divert funds to other programs — programs that are not for retirees. The non-contract retirees continue to be held at the mercy of new Delta management to provide health care benefits because a written contract does not exist.

The Over-65 Program

Today, non-contract retirees do not have Over-65 health care coverage provided by Delta, however, coverage continues for retired pilots for their Over-65 health care. This is due entirely to the fact that the retired pilot group has a written contract with Delta, a contract that prevented Delta from discontinuing the coverage for retired pilots over age 65 without a huge cost associated with termination of the benefit in bankruptcy. Delta used the bankruptcy process to terminate the Over-65 coverage promised to thousands of Delta non-contract retirees, which saved the company millions of dollars. Delta provided retirees with no compensation for stripping these once dedicated and loyal employees of the promised and very necessary Over-65 health care benefits. A small subsidy was offered to those that qualify, however, Delta made no guarantees to honor the subsidy for life. In comparison, the retired pilots have their subsidies guaranteed for life through their union contracts.

The current arrangement the non-contract retirees have with Delta gives them no input into the yearly changes the company makes to the benefits provided to the group. If the non-contract retirees had a written

guarantee from Delta, they would have the ability to sit down with Delta and discuss the possible changes. Delta acknowledged during the bankruptcy proceedings that the average Delta non-contract retiree lives on less than $1,670 pension per month. This underscores the reality that the majority of Delta retirees cannot afford to continue to be hit with unfair and disproportionate health care cost increases.

Other Legacy Airlines

The retirees of other unionized carriers do not have the exposure to benefit cost increases that Delta non-contract retirees do because they have contracts that clearly outline their benefits and costs. These contracts are negotiated through their unions and often contain cost caps to ensure that retirees can prepare for their health care costs for years into the future. Retirees from these airlines, such as Northwest Airlines, know their plan design, the costs associated with the plan and the benefits of the plan years in advance. This assures them that their retiree benefits are not only protected, but also allows them the freedom and stability to plan for their cost in future years.

> If other legacy airlines impacted by bankruptcy can provide stable benefits to their retirees ... Delta should certainly be able to provide the same.

In an effort to provide a look at a unionized airline's benefits, the DALRC contacted the unions at Northwest to obtain information on their benefits. Northwest's benefits are of significant interest given the pending merger between the two airlines. There are a variety of unions that represent Northwest's employees and retirees. These include the International Association of Machinist (IAM), the Aircraft Mechanics Fraternal Association (AMFA), the Association of Flight Attendants (AFA) and Air Line Pilots Association (ALPA). The following is a brief look at the premiums being paid by the retirees in each of these unions as well as the rates for active employees:

- IAM – $18-$27 per month currently and the money provided by the bankruptcy claims is currently estimated to last until 2042
- AMFA – pay 25 percent of the total premium, which translates to approximately $90 per month for a single retiree
- AFA and ALPA – pay 20 percent of the total premium, which translates to approximately $72 for a single retiree
- Active Employees pay 15 percent of the cost of their health care at Northwest

Each of these groups provides to its members a voluntary employees' beneficiary association (VEBA) which is a special type of tax-exempt trust vehicle which provides employee benefits. These VEBAs are used to fund the retiree's health insurance and vary in size; however they all provide peace-of-mind to the retirees who utilize their funds to pay for health care. In addition to the VEBAs, Northwest retirees have an 80/20 plan design with three tiers of drugs and very small co-pays. This translates into consistent and affordable health care for retirees, something Delta no longer provides.

Prior to the bankruptcy, most Northwest employees and retirees enjoyed free health care until the age of 65. During the 1114 process, all of the work groups at Northwest were represented on the same 1114 committee and all were provided with the same level of compensation with respect to their health care programs for their lost health care in cost and plan design changes. Those losses were turned into bankruptcy claims and each work group determined how they wanted to allocate their bankruptcy claims. The reason there are different levels of cost in their health care coverage today is due to the fact that some unions decided to split their money received for the loss of benefits and plan design changes, taking some money in the form of cash and putting some funds into a VEBA trust to help offset the cost of their health care until they reach the age of 65. Others decided to put all their claims into the VEBA for health care benefits which helped to keep their cost low for decades to come. They all have the similar insurance programs today; both active and retired and the cost of their insurance was spread out among all employees and retirees when the cost of the benefit was

determined. This practice appears the same throughout the industry with the legacy carriers except for Delta. Delta did use the same process until 2002, and this has been one of the primary reasons for the rising cost of health care to Delta retirees.

This blending of rates is the same across all unionized carriers that DALRC studied–the retirees are protected by a contract for their health care and are able to have stability in their insurance cost over the years. If other legacy airlines impacted by bankruptcy can provide these assurances and benefits to their retirees and active employees alike, and still have to support unions which they admit cost millions of dollars, Delta should certainly be able to provide the same level of benefit to their retirees. After all, that was one of Delta's key points for why unions were never a benefit to Delta people in the past; Delta used that money to provide excellent pay and benefits to its employees and retirees instead of paying to support union negotiations.

> It is time for Delta to stop using the non-contract retiree health care money as a "slush fund" to support other company programs.

About the Delta Pilot Retiree Group

The retired pilot group, although impacted by Delta's financial problems, have had representation and a seat at the table through ALPA and the pilot 1114 committee. Despite this, the retired pilots have suffered losses including reductions in pension payments and increases to their health care cost over the years. On the positive side, any changes made to the retired pilots' costs and benefit structure (such as being included in a pool of retiree only for determination of cost for health care benefits) are negotiated and approved by one of those two groups. The non-contract group had nothing in writing except for the premium cost of two retirement groups, PensionPlus and ERMO, therefore they were limited to what they could negotiate without any other cost or plan design features outlined; such as was outlined in the pilot health care programs.

Conclusions

Delta needs to return to industry standards for providing benefits and live up to the commitments made to retirees that worked for decades. The direct relationship Delta non-contract retirees have today, in lieu of a written contractual arrangement for heath care and retirement benefits, has lead to increasing costs and steady decline in benefits of non-pilot Delta retirees. When the leadership of Delta changed, the historical importance of living up to the promises made was changed as well. While Delta has been able to sustain, to some degree, the health care commitments promised to retired Delta pilots, or compensate them for their loss of benefits, the company has elected to exploit those people that did not have a contract and continue to shift more and more of the cost burden of health care to the non-contract retirees.

If Delta continues to tap non-contract retiree benefits to supplement its other programs, these funds will one day be completely gone and with that the health care benefits promised to non-contract retirees. It is time for Delta to stop tapping these funds to hold the company's costs down. This will not be possible unless the non-pilot retirees are able to secure an agreement in writing from the new management team at Delta—and this begins with a seat at the table for any discussions regarding future health care benefits. If Delta pilots can have stable costs for their health care and other legacy airlines can provide stable health care benefits for their retirees then there is no excuse why the non-pilot retirees should not enjoy the same stability. Delta non-contract retirees deserve stable health care benefits and an equally stable cost basis or compensation for the loss of promised benefits.

■

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Appendix

DALRC
RETIREMENT COMMITTEE

The Evolution of Non-Contract Retiree Benefits–By the Numbers

A record of the costs associated with health care coverage for Delta non-contract employees retiring between 1993 and 2008. The following charts show the cost of paying 100 percent of the premiums along with nine early retirement packages and how they compare to the cost of health care for Delta non-contract retirees today.

Nine Early Retirement Packages

Mr. KIGHT. Thank you.

We know that our employees and retirees may be worried about the changes ahead. As a result, we have made very deliberate decisions to ensure that this merger is in their best interest and to anticipate their concerns.

Our objective is to create a stronger, more enduring airline that will provide job security, opportunities for career growth and enhance benefit security as well.

As you know, Delta and Northwest CEOs have already testified before four congressional committees. Their statements and testimony have addressed all aspects of this merger, including providing extensive information on the impact on employees and retir-

ees of the two companies. My testimony will primarily concentrate on the compensation and benefits that Delta will provide post-merger to the employees and retirees of Delta and Northwest since those areas fall within my scope of responsibilities.

Delta has long enjoyed a uniquely cooperative relationship with its people. We believe that if we take care of our people, they will take care of our customers. Accordingly, the merger's impact on our people was uppermost in our minds as these decisions were made. Delta would not have done this deal if it did not benefit the people of both airlines, our customers, our communities and our shareholders.

The Delta-Northwest merger is a combination of two airlines with networks that are highly complementary with virtually no overlap. This merger is about addition, not subtraction. Linking Delta's extensive network in the eastern, southern and intra-mountain U.S., Europe and Latin America with Northwest's strong presence in the midwestern U.S. and Asia will provide opportunities for growth as we leverage the network strength of the two carriers.

This merger will provide numerous benefits for our people, many of which otherwise could not be attained on a standalone basis.

We have committed to the following: The employees of the two companies will receive equity in the new company in the form of fully vested, unrestricted stock, representing almost 10 percent of the value of the enterprise. This level of employee ownership grant is unprecedented in the airline industry.

Delta will maintain a top-tier profit sharing plan and operational rewards program. For 2007, these provided Delta employees with roughly $200 million in additional compensation.

Over time, we have committed to move all employees to industry standard pay and benefits.

There will be no involuntarily job furloughs of U.S.-based front-line employees as a result of the merger.

And we have also committed to continued provision of competitive health care, time off, travel benefits and other benefits.

Let me address more fully one additional commitment that we have made: to fund the frozen defined benefit pension plans of both companies fully.

Mr. Chairman, Delta recognizes and very much appreciates the important role that this committee played in passing the Pension Protection Act in 2006. In particular, we want to thank Congressman Price for his leadership role in the original legislation to enable us to save our DB plan. We remain extremely grateful to this subcommittee and to Congress for providing provisions in that legislation that enabled us to preserve the Delta's defined benefit pension plan for nearly 91,000 Delta ground and flight attendant employees and retirees.

Since the PPA was enacted, Delta contributions have totaled approximately $128 million through July of this year. We fully intend to maintain both the Delta and Northwest frozen defined benefit plans following the merger.

In addition to the preservation of the frozen defined benefit plans, Delta will also continue post-merger to provide retirement benefits through defined contribution plans together with our defined benefit plan funding. Importantly, the merger will produce a

financially stronger airline that is better able to meet our retirement obligations and weather an extremely challenging economic and competitive environment, including the doubling of jet fuel during the past year.

Delta believes that a merger cannot be successful unless its employees are fully supportive and engaged in making a stronger airline. One extraordinary example of employee engagement is the joint agreement Delta has already reached with the Delta and Northwest units of the Air Line Pilots Association. This joint contract, to take effect upon closing of the transaction later this year, is unprecedented in the airline history. Separately, the pilot groups have also established a process designed to create a pilot seniority list by the close of the merger.

This agreement and attainment of a joint seniority list is a terrific testament to the leadership of ALPA and the importance of working together in a collaborative fashion.

Mr. Chairman, thank you for this opportunity to appear before you today. As you can see, Delta and Northwest have put people first in pursuing this merger, because we are committed to making Delta the best airline in the world for its employees and its other stakeholders.

I look forward to answering your questions. Thank you.

[The statement of Mr. Kight follows:]

TESTIMONY OF ROBERT KIGHT
VICE PRESIDENT, COMPENSATION AND BENEFITS
DELTA AIR LINES, INC.

BEFORE THE

HOUSE EDUCATION AND LABOR SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS
HEARING ON "THE PROPOSED DELTA/NORTHWEST AIRLINES MERGER: THE IMPACT ON WORKERS"

Mr. Chairman, Members of the Subcommittee, Delta welcomes this opportunity to appear before you today to discuss the impact on the employees and retirees of both companies resulting from the proposed Delta-Northwest merger. My name is Rob Kight and I am Delta's vice president of compensation and benefits. I have worked for Delta for 18 of the last 22 years and have held responsibility for our compensation and benefit programs for the last 4 years.

We know our employees and retirees may be worried about the changes ahead. As a result we have made deliberate decisions to ensure that this merger is in their best interests and anticipate their concerns. Our objective is to create a stronger, more enduring airline that will provide job security and opportunities for career growth, and enhance their benefits security. We firmly believe this combination will do just that.

As you know, our CEO Richard Anderson, and the Northwest CEO and President, Doug Steenland have already testified before four congressional committees since the proposed merger was announced on April 14. Their statements and testimony have addressed all aspects of the merger including providing extensive information on the impact on the employees and retirees of the two companies. For purposes of this hearing today, my testimony will primarily concentrate on the compensation and benefits that Delta will provide post-merger to the employees and retirees of Delta and Northwest since those areas fall within the scope of my responsibilities.

Delta has long enjoyed a uniquely cooperative relationship with its people. We believe that if we take care of our people, they will take care of our customers. Accordingly, the

merger's impact on our people was uppermost in our minds. Delta would not have done this deal if it did not benefit the people of both airlines, our customers, our communities and our shareholders.

Delta people actively opposed the attempt by US Airways to acquire us because they agreed with our view that it would be harmful to them. The US Airways proposed hostile takeover was predicated on gaining efficiencies through the elimination of overlapping services, shrinking hubs and reduced network flying. It would have resulted in the loss of jobs, reduced benefits and career opportunities. In contrast to the US Airways failed takeover, the management and employees of Delta firmly believe this merger is in our collective best interest.

The Delta-Northwest merger is the combination of two airlines with networks that are highly complementary, with virtually no overlap. This merger is about addition, not subtraction. Linking Delta's extensive network in the eastern, southern, and intra-mountain United States, Europe, and Latin America with Northwest's strong presence in the midwestern United States and Asia will provide opportunities for growth as we leverage the network strength of the two carriers.

This merger will provide numerous benefits for our people many of which otherwise could not be attained on a stand alone basis. We have committed to the following:

- The employees of the two companies will receive equity in the new company in the form of stock representing almost 10% of the value of the

enterprise. This level of employee ownership grant is unprecedented in the airline industry.

- Delta will maintain a top-tier profit sharing plan and operational rewards program. For 2007, these programs provided Delta employees roughly $200 million in additional compensation. While skyrocketing fuel prices will take a big bite out of that performance this year, we remain proud of these programs which help share our success with the employees who make it possible.
- Over time, we will move all employees to industry standard pay and benefits.
- No involuntary job furloughs of U.S.–based frontline employees as a result of the merger.
- Continued provision of competitive health care, time off, travel pass benefits.

Let me address more fully one additional commitment we have made – to fund the frozen defined benefit pension plans of both companies fully. Mr. Chairman, Delta recognizes and very much appreciates the important role that this Committee played in passing the Pension Protection Act in 2006. We remain extremely grateful to this Sub-Committee and Congress for providing provisions in that legislation that enabled us to preserve Delta's defined benefit pension plan for nearly 91,000 Delta ground and flight attendant employees and retirees. As you know, we made a pledge to our employees and to Congress that we would do everything possible to ensure that they would receive the retirement benefits they had earned. While one plan - that covering Delta's pilots - could

not be maintained even with the PPA due to its unique lump-sum payout feature, we fully intend to maintain both the Delta and Northwest plans following the merger.

In addition to the preservation of the frozen defined benefit plans post-merger, Delta will continue to provide retirement benefits through defined contribution plans together with our defined benefit plan funding. We feel confident that the merger will better equip the combined company to meet our commitment to fund these important retirement income benefits.

Importantly, the merger will produce a financially stronger airline that is better able to weather an extremely challenging economic and competitive environment, including the doubling of jet fuel during the past year. It is important to recognize that these external forces will continue to have a very direct and independent impact on our business and the financial health of the company. Both companies are working very hard to respond to soaring fuel costs and the need for this merger becomes more important in helping us to cope with this difficult challenge and improve the security of the important benefits we provide.

There has been justifiable criticism about the failure of airline mergers in the past to give adequate priority to the impact on their people. Delta believes that a merger cannot be successful unless its employees are fully supportive and engaged in making a stronger airline. We have worked hard to earn the support and active engagement of our employees. This means constant communication and involvement with all work groups on the front end so that we are better able to deliver at closing the benefits we believe will

flow to our employees and other stakeholders. Our theme "Fly Together" reflects a communication and planning process that is well underway in anticipation of approval of the merger later this year. I would like to cite several quick examples: The very first step we took after announcement of the merger was focused on our people. Within weeks we had implemented an enhanced travel exchange program opening up greater access to the combined route network for employees and retirees of both companies. We have also created a unique website linking both company internal sites and providing up-to-date information on all aspects of the merger.

Finally, one extraordinary example of employee engagement is the joint agreement Delta has already reached with the Delta and Northwest units of the Air Line Pilots Association (ALPA). This joint contract to take effect upon closing of the transaction later this year is unprecedented in airline history. Under this agreement, the pilots will enjoy enhanced equity, pay and benefits. Separately, the pilot groups have also established a process designed to create a single pilot seniority list by the close of the merger. This agreement and attainment of a joint seniority list is a terrific testament to the leadership of ALPA and the importance of working together in a collaborative fashion.

Mr. Chairman, thank you for this opportunity to appear before you today. As you can see, Delta and Northwest have put people first in pursuing this merger because we are committed to making Delta the best airline in the world for its employees and other stakeholders. I look forward to answering your questions.

Chairman ANDREWS. Mr. Kight, thank you very, very much. We appreciate your involvement.

Mr. Ford, welcome back to the subcommittee.

STATEMENT OF GARY FORD, ATTORNEY, GROOM LAW GROUP

Mr. FORD. Thank you, Mr. Chairman.

As the chairman mentioned, I am Gary Ford. I am a lawyer here in Washington, but I am appearing on behalf of Northwest Airlines today.

I have been, I say with some mixed feelings, working in the pension and employee benefits area for more than 25 years.

Let me begin by saying, "thank you," to the members of this subcommittee on both sides of the aisle for your persistence and hard work in crafting and ultimately enacting the Pension Protection Act of 2006. From the point of view of Northwest Airlines, the most important provisions in that very important legislation are the ones that have alternative funding rules for pensions in commercial airlines.

Under these rules, if an airline and its employees agree to elect the new rules, then the airline is given an extra amount of time to fund the existing liabilities of its pension plan.

Let's put this in context for Northwest Airlines. Recall that in 2005 Northwest filed for Chapter 11 bankruptcy protection and completed its restructuring process and successfully emerged from bankruptcy in May of 2007. So the Pension Protection Act falls right in that window, and I am pleased to report that because you had the foresight to include airline funding provisions in PPA, Northwest has been able to retain all of its defined benefit pension plans after emerging from Chapter 11, and as a result has not made a claim on the PBGC, and no employee of Northwest has lost any of his or her accrued pension benefit.

The members of this subcommittee and the full committee should be commended for your efforts to craft and pass the pension funding legislation that brought about this very real positive result in the real world. Without it, Northwest would certainly have had to terminate its pension plans in order to be able to emerge from bankruptcy protection.

Since PPA was enacted, Northwest contributions to those plans, covered by the PPA funding special rules, have totaled about $87 million, and these plans will continue to be funded as required by the Pension Protection Act rules.

Now, let me round out the picture of the employee benefits at Northwest by saying on the pension front that the obligations do not end with these three pension plans. Northwest also funds 401(k) retirement plans for most of its employees, both union and salaried. And for most of its IAM represented employees, Northwest contributes to a separate multi-employer plan.

So what effect would a Northwest-Delta merger have on Northwest's employee benefit obligations and in particular on its obligation to fund the three plans covered by PPA?

First, it is important to note that the funding requirements and other rules applicable to these plans would not be altered by the merger. In a merger of Northwest and Delta, the combined company would have responsibility for meeting all of the legal requirements, including the new Pension Protection Act funding rules.

Second, there is a potential effect of the merger that would greatly increase the security of Northwest's employee benefits. If one examines the major claims that have been made on the Pension Benefit Guaranty Corporation, a clear pattern emerges. The major claims on PBGC are not principally a result of something related to the pension plan. Rather, they are the result of the financial distress, severe financial distress, usually culminating in bankruptcy of the company that sponsors the plan. Indeed, they are often driven by the financial distress of an entire industry. Think about the steel and metals industries. It is no exaggeration to say that the

key to securing employee benefits in the airline industry is financially strong airlines that can shoulder the cost of these benefits.

Now, the boards of directors at both Delta and Northwest, as well as the management teams, have concluded that a merger of Northwest and Delta would produce a financially stronger airline. As Doug Steenland, the CEO at Northwest, put it, the combined company will be more financially resilient, better positioned to satisfy customer demands and better able to meet the challenges of the future at home and abroad.

I will add to Mr. Steenland's list that a merger would have an important benefit that was the focus of this hearing: A stronger merged airline will be better able to fund its pension and other employee benefit promises, avoid a PBGC takeover of its pension plans, and provide reliable retirement security to its employees, past and future.

In short, Northwest shares this subcommittee's goal of protecting pensions of airline employees, and I hope this short statement has been helpful in advancing your consideration of that issue.

[The statement of Mr. Ford follows:]

Prepared Statement of Gary M. Ford, Principal, Groom Law Group

Good morning. My name is Gary Ford. I am a principal at the Groom Law Group, located in Washington, DC and have practiced in the pensions and benefits area for more than 25 years. I appreciate the opportunity to testify before the Subcommittee this morning regarding the pension plans that are maintained by my client, Northwest Airlines.

Let me begin by saying "thank you" to the Members of this Subcommittee on both sides of the aisle for your persistence and hard work in crafting and ultimately enacting the Pension Protection Act of 2006. From the point of view of Northwest Airlines, the most important provisions of that important legislation are the alternative funding rules for commercial airlines. Under these rules, if an airline and its employee groups elect the alternative funding rules under PPA, then the airline is given extra time to fund the existing liabilities.

On September 14, 2005 Northwest filed a voluntary petition for bankruptcy under Chapter 11 of the United States Bankruptcy Code. Northwest completed its restructuring process and emerged from Chapter 11 protection on May 31, 2007. I am pleased to report that, because you had the foresight to include airline funding provisions in PPA, Northwest has been able to retain all of its defined benefit pension plans after emerging from Chapter 11 protection. As a result, Northwest has not made a pension claim on the Pension Benefit Guaranty Corporation. No Government money has been expended to cover Northwest's pension costs and, most importantly, no employee of Northwest has lost any of his or her accrued pension. The members of this Committee should be commended for your efforts to craft and pass the pension funding legislation that brought about this result. Without it, Northwest would have certainly been forced to terminate its pension plans in order to emerge from bankruptcy.

Since the PPA was enacted, Northwest's contributions totaled approximately $ 87 million. These plans will continue to be funded as required by PPA.

To round out the picture of Northwest's benefit arrangements, you should also be aware that Northwest's employee benefit obligations do not end with the three plans covered by the airline funding rules. Northwest funds 401(k) retirement plans for most of its employees, both union represented and salaried. For most of Northwest's IAM-represented employees Northwest contributes to a separate, multiemployer pension plan.

So what effect would a Northwest-Delta merger have on Northwest's employee benefit obligations and, in particular, on its obligation to fund the three pension plans covered by the PPA airline funding rules? First, it is important to note that the funding requirements and other rules applicable to these three plans would not be altered by a merger with Delta Air Lines. In a merger of Northwest and Delta, the combined company would have responsibility for meeting all legal requirements applicable to the plans, including PPA's funding rules.

Second, there is a potential effect of the merger that would greatly increase the security of Northwest's employee benefits. If one examines the major claims that have been made on the PBGC, a clear pattern emerges. The major claims on the PBGC are not principally a result of something related to the pension plan itself, but rather they are the result of the severe financial distress, culminating in bankruptcy, of the company that sponsors the pension plan. Indeed, they are often driven by the financial distress of an entire industry. It is no exaggeration to say that the key to secure employee benefits in the airline industry is financially strong airlines that can shoulder the cost of those benefits.

The boards of directors at Northwest and Delta, as well as the management teams at both airlines, have concluded that a Delta-Northwest merger would produce a financially stronger airline. As the Chief Executive Officer of Northwest, Douglas Steenland, stated recently, "the combined company will be more financially resilient, better positioned to satisfy customers' demands, and better able to meet the challenges of the future at home and abroad." I will add to Mr. Steenland's list of benefits of a merger an important benefit that is the focus of this hearing: a stronger merged airline will be better able to fund its pension and other employee benefit promises, avoid a PBGC takeover of its pension plans, and provide reliable retirement security to its employees, past and future.

Northwest shares the Subcommittee's interest in protecting the benefits of airline employees. I hope that this short explanation of the current status of Northwest's benefits plans has been helpful. I will be happy to answer any questions that the members of the Subcommittee may have.

Chairman ANDREWS. Thank you very much, Mr. Ford.

Final witness is Mr. Kochan.

Welcome to the committee. We look forward to your testimony.

STATEMENT OF THOMAS KOCHAN, CO–DIRECTOR, INSTITUTE FOR WORK AND EMPLOYMENT RESEARCH

Mr. KOCHAN. Thank you, Mr. Chairman, members of the committee. I appreciate the opportunity to testify on this important set of issues facing workers and two very key firms in the airline industry.

I am going to base my comments today on research that my colleagues and I have been doing on the airline industry over the last eight years as part of a larger project on the airline industry that is going on at MIT.

My specific comments are going to talk about the effects of a potential merger on labor and employee relations at the merged organization and then, in turn, what our research tells us will be the effects of labor and employee relations on the financial performance of the firm and on employee interests.

Let me summarize my comments very succinctly.

If the labor and employee relations issues that confront the merged organization are not addressed satisfactorily prior to or as part of the merger process, the merged organization is likely to experience intense and prolonged labor management conflict over organizing and representation rights and over the negotiation of contracts for those groups that choose to be represented.

If this happens, our research tells us very clearly that the effects of these conflicts will be to produce low levels of productivity, poor customer service, significant financial pressures on the airline and, if extended over time, could lead to a return to bankruptcy for these organizations.

On the other hand, there is a potential here. If these issues are addressed effectively as part of the merger process, then we believe that there is particular upside potential to improve customer serv-

ice, strengthen the airline's financial performance and, indeed, allow employees to move toward the industry standards that Mr. Kight indicated.

So I think there is an opportunity here for the organizations, if they do this right, to really address what is a deeper crisis in the airline industry today.

I don't have to recite all the facts that are in the written testimony about the job losses, the financial losses, the cuts in wages and benefits, the number of pension plans that have been terminated and turned over to the PBGC, but, clearly, that is the backdrop for the crisis that is likely to encounter this merged organization is these issues are not addressed.

Let me just very quickly illustrate how this is likely to play out. As President Friend mentioned, there have been organizing efforts of flight attendants at Delta. We have very different cultures between Delta and Northwest. Northwest is a highly unionized carrier; Delta, the only employee groups that are organized are the pilots. But if organizing then occurs again, our prediction is that you will have a very tightly controlled—contested process.

The numbers add up to the fact that we are likely to see an outcome that is somewhere within 10 percent on one side or the other of a union victory or a union loss. That is going to lead to a highly contested process, a long drawn out process, as has been the pattern in the past and prolonged conflict. That kind of conflict is exactly what our research shows leads to these dire economic consequences for the firm, for customers and for employees. And, indeed, that conflict is likely to carry over into the labor negotiations process itself and further put the company at risk.

Now, I believe this negative scenario can very easily be avoided if three things are done. First, if the organization's union and management groups involved address the questions of how they are going to deal with representation issues effectively, I believe they can be done in a more collaborative, or at least in a more respectful and less legalistically encumbered process.

Second, if the parties redesign their labor management relations process to deal with the negotiations process using state-of-the-art techniques that have proven their worth in other industries, then I believe they can also improve the negotiations process and get on with the deeper problem of then addressing what we know is so critical and that is building a positive workplace culture that emphasizes customer service, that gets the full motivation of employees exercised in serving their customers.

So, in summary, I believe that the Congress, the administration, the parties themselves face either a crisis or an opportunity. If left unto their own devices and if past practices prevail, then we are going to see profound conflict in this merged organization that will put the merger at risk and put the jobs and the pensions of employees at risk.

If action is taken now, prior to the merger, if the merger is conditioned on the willingness and the ability of the parties to address these issues, then I believe they can take steps that have been well documented in other parts of the industry to improve performance, improve customer service and secure the jobs and pensions of the employees.

Thank you, Mr. Chairman.
[The statement of Mr. Kochan follows:]

Prepared Statement of Thomas A. Kochan, George M. Bunker Professor of Management, Co-Director, MIT Institute for Work and Employment Research

My name is Thomas Kochan and I am a professor of management at the MIT Sloan School of Management and Co-Director of the MIT Institute for Work and Employment Research. My comments today are derived from a study of airline labor and employee relations that a group of us has been carrying out over the past eight years under the auspices of the MIT Global Airline Industry Project.[1]

My specific comments relate to the likely effects of the proposed merger between Northwest Airlines and Delta Airlines on labor and employee relations in the merged organization and, in turn, the effects of labor and employee relations on the organization's financial performance, customer service, and employment outcomes. My main point can be summarized succinctly.

If the labor and employee relations issues that will confront the merged organization are not addressed satisfactorily prior to or as part of the merger process, the merged organization will experience intense and prolonged labor management conflict over organizing rights and representation and in negotiations of labor agreements for those occupational groups that choose to be represented. If this happens, our research, and recent experience of merged airlines predict the merged firm will experience low productivity, poor customer service, and significant financial losses that could lead to a return to bankruptcy. If, on the other hand, these issues are addressed successfully prior to the merger, the new organization has the potential for improving these economic outcomes for its shareholders, employees, and the customers and communities it serves. Therefore, I urge the Congress and the Administration to insist that the key labor and employment issues which I will discuss in more detail below be addressed as part of the business plan for the merged organization and that the merger only be approved if all the parties involved demonstrate a commitment to implementing this plan.

Background: The Airline Industry is headed toward a "Perfect Storm"

Between 2001 and 2005 airlines in the U.S. cut over 100,000 jobs and lost $30 billion dollars. Employees lost over $15 billion in wages. Sixteen pension plans covering approximately 240,000 employees were terminated and turned over to the government's Pension Benefit Guarantee Corporation.[2] Morale plummeted to all time low levels. Customers have endured increased traffic delays and more lost baggage, and customer complaints are rising. The air traffic control system needs a major technological upgrade, airport congestion is stressing the system, and air traffic controllers can't be hired and trained fast enough to replace those retiring. Now, in the face of fuel prices that have risen over 80 percent in the past year, all airlines (with the exception of Southwest, the only company that was able to hedge against fuel price increases) are once again experiencing deep financial losses, employees are experiencing further job cuts, and customers and communities are facing further cuts in service. So on all these dimensions the nation's air transportation system is being stressed and perhaps approaching its limits. The prospect for a perfect storm in which the pressures explode together is growing. The pressures are likely to come to a head when labor contracts covering employees who took the deepest cuts in wages and benefits come due for renegotiations in late 2009 and early 2010.

Labor Relations Challenges/Conflicts Associated with the Delta-Northwest Merger

The pending crisis could come even sooner for Delta and Northwest if their proposed merger is approved and moves forward without attending to the labor and employee relations challenges and likely conflicts that the merged organization will experience. The merged organization will bring together two firms with very different organizational cultures and labor relations traditions and systems. These different cultures will be difficult to integrate without experiencing prolonged conflicts and further declines in passenger service.

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[1] The full results of our research will be summarized in Greg Bamber, Jody Hoffer Gittell, Thomas Kochan, and Andrew vonNordenflytch, Up in the Air: How Airlines can Compete by Involving their Workforce. Cornell University/ILR Press, forthcoming, Fall, 2008.

[2] Carolina Brionnes and Holly Myers, Short Changed: How airlines can repay taxpayers for billions of subsidies by improving jobs, security, and services." Los Angeles Alliance for a New Economy: Working Partnerships USA, p. 12.

Except for its pilots, Delta is largely a non-union company while nearly all eligible Northwest employees are unionized. Historically, relations between Northwest and its employees' unions have been among the most adversarial in the industry. Thus, one of the first issues that employees in the merged organization will need to decide is whether or not they want to be organized and, if so, by which organization. Delta Airlines has a long history of seeking to avoid union representation of its employees. Flight attendants, for example, have mounted several organizing drives at Delta in recent years that met with strong resistance from the company. The top management team from Delta is expected to manage the merged organization and, if past history is an indication, it will be determined to avoid unionization of flight attendants in the merged organization. This will undoubtedly produce another drawn out and highly contested organizing process for flight attendants and other employee groups.

While it is not possible to predict the results of an organizing drive with certainty, the numbers involve predict a close and therefore highly contested election. Delta now employees approximately 13,700 and Northwest employs approximately 8,600 flight attendants. Presumably the same approximate numbers or proportions will be employed in the merged organization. Under rules of the Railway Labor Act and its administrative agency, the National Mediation Board, to win representation rights a majority of all employees in the unit (11,151) must vote for representation. If national trends among already represented employees carry forward, approximately 80 percent of former Northwest employees (6,880) are likely to favor representation. If the same number of employees vote to be represented as did so in the last election at Delta (32 percent or 4,384), the union will just barely gain a majority of the unit (11,264). This of course is only one possible outcome. The point is not to predict a union victory or loss. The point is all parties will expect the outcome to be uncertain but close. These are exactly the conditions that lead to the most intensive and highly contested campaigns and extended legal appeals by the losing party.

Likely Consequences of Prolonged and Intensive Conflicts

Our research has documented the consequences of a low trust workplace culture and a high or prolonged level of labor management conflict. Using data from 1987 to 2002 we tracked the effects of labor relations on the productivity, service quality, and profits of large US airlines and found that a low trust workplace culture and prolonged conflict in labor negotiations were associated with lower productivity, service quality, and profitability.[3] If, as we expect, the merger produces a similar period of low trust and high conflict, our results predict the same negative economic consequences for the merged organization. Given the fragile economic condition of these two organizations, there is little room for further decline in economic performance.

How this Negative Scenario Might be Avoided

There is an alternative. Our research shows that there are steps that can be taken to build a sustainable airline that addresses the interests of customers, employees, and investors and that contributes to the national interest of having a safe, reliable, and profitable airline industry. Our basic finding, drawn from both quantitative and qualitative research, suggests that to avoid the perfect storm and to achieve a sustainable recovery airlines need to (1) build a positive workplace culture in which the different occupational groups work together in a coordinated fashion, (2) redesign union-management processes for deciding and resolving worker representation issues and contract negotiations to avoid the long delays and protracted conflicts that have come to characterize both processes, (3) agree on a long term compensation plan in which wages of all employee groups (and managers and executives) increase in a steady, predictable fashion in relationship to overall economic trends in cost of living and in the revenues and profitability of the airline.

Given these findings, the federal government should not approve any merger unless the business plan for the merged organization specifies how management and labor leaders will deal with the following issues.

1. Management and labor leaders should agree on a process for determining whether and/or which unions or associations will represent different occupational groups in the merged organization that avoids delays, conflicts, and negative/disparaging anti-union or anti-management rhetoric or actions.

This could be done in a number of ways. A growing number of companies and unions in other industries have negotiated private "rules of conduct" governing be-

[3] Jody Hoffer Gittell, Thomas Kochan, and Andrew vonNordenflycht, "Mutual Gains or Zero Sum? Labor Relations and Firm Performance in the Airline Industry, Industrial and Labor Relations Review, vol. 57, no. 2, 2004, pp. 163-179.

havior and procedures for union elections that eliminate use of disparaging comments by all parties, minimize delays and legal battles, and/or provide for neutrality or other conditions that ensure employees can make their own decisions on whether or not to be represented. A similar process and agreed upon rules of behavior could be worked out among the unions and the company and thereby significantly reduce the time, stress, and litigation costs associated with this process.

2. Management and labor leaders should have a well developed plan for improving the culture of the workplace so that different occupational groups (ground crews, pilots, flight attendants, etc.) work together in a coordinated fashion with their managers to deliver reliable, high quality customer service.

If the organizing process moves forward in the traditional highly contested and drawn out fashion, the likely outcome (regardless of whether a majority choose union representation or not) is a workplace culture fraught with tension, bitterness in the aftermath of the election ,and a workforce that continues to carry over the traditions and cultural features of the organizations from which they came. This has been the experience at the most recent large merger—i.e., the merger of US Airways and America West. Figure 1 illustrates the result: Nearly two years after the merger, the new US Airways ranked at the bottom of its peer airlines in on time arrivals, baggage losses, and customer complaints. This should serve as a clear object lesson for the new Delta and any other airlines that seek to combine organizations with different organizational cultures.

It is not impossible to avoid this same outcome. Continental Airlines demonstrated how it is possible to turn around an extremely negative and bitter workplace culture and labor relations environment after a new management team took over and brought the company out of bankruptcy in 1994. Our research shows that it was successful in doing by communicating extensively with its employees, negotiating fair but efficient labor agreements in a timely fashion, and introducing incentives and rewards for meeting on time performance and other goals that affected both the company's bottom line and the quality of customer service. The record speaks for itself. So a clear plan for learning from the Continental experience should be required.

3. Management and labor leaders should negotiate long term labor agreements that gradually restore workers wage and benefits and secure the pension plans that remain in place by linking compensation adjustments to increases in the cost of living, management and executive compensation increases, and the financial performance of the firm. The parties should also be required to develop a process for assuring future agreements are negotiated in a timely fashion without resort to work stoppages.

If the different employee groups band together to demand their wage and benefits be restored to pre-concession levels, the prospect for a strike that will significantly disrupt passenger service is very high and will create strong pressure for government officials to turn to a Public Review Board and/or some other form of government intervention to resolve the dispute. Thus, waiting to deal with these issues, or dealing with them in the traditional manner, will put the company at risk and risk disrupting airline service to major cities such as Detroit, Atlanta, Minneapolis-St. Paul, and a number of smaller cities in which Delta and Northwest are now the major service providers. Steps to avoid this need to be taken now.

There are ways to reduce these risks. An increasing number of labor and management negotiators around the country have turned to state of the art "interest based" negotiations processes to resolve their conflicts and search for innovative, mutual gain solutions to their problems. Indeed, several years ago, an airline industry labor-management task force developed a set of consensus recommendations on how to improve negotiations in this industry.[4] Adapting and implementing these consensus recommendations and state of the art practices from other industries would be a practical way of achieving the type of commitment called for here.

The approach taken by the pilot unions from Delta and Northwest may serve as a model for other groups. Their respective unions, in conjunction with company representatives, have negotiated a joint agreement that restores some of the wages and benefits given up in recent years. Moreover, the unions have agreed on a process for integrating their seniority lists that provides for binding arbitration if the union representatives cannot reach an agreement on their own. By taking these proactive steps the parties have ensured that pilot labor relations will not impede the merger transaction nor risk a long drawn out representation or negotiations process after the transaction is consummated.

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[4] See, Options for Improving Negotiations and Dispute Resolution: A Report of the Working Group on Airline Labor Relations, March, 2004.

In summary, I believe we are facing a pivotal moment in the history of American aviation. Simply approving the merger and letting past patterns play out as expected will likely produce a financial crisis for the merged company and put more jobs, pensions, and services at risk. These consequences can be avoided by taking actions now to put in place practices that have demonstrated their value in airlines and in other industries. How government, management, and labor leaders handle this opportunity will determine whether we avert or speed up the arrival of the perfect storm looming on the horizon.

FIGURE 1.—SERVICE QUALITY COMPARISONS ACROSS US AIRLINES

	Consumer Complaints	On Time Arrivals	Mishandled Baggage
Southwest	0.3	80.4	6.0
Alaska	0.8	71.5	6.6
JetBlue	0.8	69.3	5.8
Continental	1.1	74.7	5.7
Northwest	1.5	69.7	5.1
American	1.8	69.5	7.4
Delta	1.9	76.9	7.7
United	2.3	71.8	6.0
US Airways	3.4	68.0	8.8

Customer Complaints = complaints per 1,000 passengers, January-September, 2007.

On Time Arrivals = Percent total on time arrivals, November 2006-October 2007.

Mishandled Baggage = Reports per 1,000 passengers, January-September, 2007.

Sources: Transportation Department and Bloomberg Financial Markets. Reprinted from Jeff Bailey, ‘‘Fliers Fed Up? The Employees Feel the Same, New York Times, December 22, 2007, p. A16.

Chairman ANDREWS. Mr. Kochan, thank you very much.

I would like to thank each of the witnesses, and we will begin with the questioning of the witnesses.

Mr. Kochan, I wanted to extend your argument a bit, that you argue that, I think pretty persuasively, that a cooperative approach to labor management relations tends to yield success for the airline, which tends to yield more contributions to the pension fund, which tends to yield less exposure to the taxpayers and the PBGC.

And I notice that on pages four and five of your testimony you indicate that one of the pre-merger topics that should be negotiated is long-term labor agreements that gradually restore workers' wage and benefits and secure the pension plans that remain in place by linking compensation adjustments to increases in the cost of living, management and executive compensation increases and the financial performance of the firm.

Do you think that that sort of requirement should be a precondition to the Department of Justice approving a merger?

Mr. KOCHAN. It would be unusual for the Department of Justice to address these issues as a condition for a merger, but I believe it is absolutely essential. If the Department of Justice's responsibility is to judge whether this merger is in the interest of the industry and the interest of the American public, then absolutely these issues should be addressed as part of the merger process and made a condition——

Chairman ANDREWS. Now, I would assume you would agree that under present law the Department of Justice has the discretion to consider these factors. Would you agree with that?

Mr. KOCHAN. I agree that the Department of Justice has the discretion to do so. It will take——

Chairman ANDREWS. Do you think that we should give them the statutory mandate that they require these—that they consider these issues?

Mr. KOCHAN. I think that is an issue particularly relevant for your committee. I think it is time that we start to put the labor and employee issues on the same level of concern as we do competitive issues, and I think that would be a positive development for public policy.

I would also say that, as Mr. Kight indicated, we have an example. The pilots, because they are both represented, have worked out a very creative agreement to deal with these issues upfront, to start to restore some of the wages and benefits that they had given up in the past and, as he indicated, an agreed upon process with arbitration to work out the merger of the seniority rules. That is exactly the kind of proactive effort that I think would be in order——

Chairman ANDREWS. How do you think that process should go forward if there is not collective bargaining representation? The example that you use, pilots in both existing airlines are represented. What should we do in a circumstance where at least one of the parties is not represented through collective bargaining?

Mr. KOCHAN. I believe we should instruct the National Mediation Board to work with the parties in the representation election process to come up with rules of conduct, as some organizations have done in other industries, to limit the disparaging comments, to limit the time required to have a rational process for deciding representation. If those employees——

Chairman ANDREWS. I agree with that completely, and, frankly, for the record, I am troubled by the proposed rules from the NMB regarding changes in this, but I am asking you a different question. If you are at a point where a merger has been proposed and there is not representation of the employees on at least one side, and there is really not time for a representation election given the exigencies of the merger proposal, how should the Department of Justice proceed in evaluating the issues that you have raised with respect to that hypothetical merger?

Mr. KOCHAN. The organization, the company has to put forward a business plan. The business plan should be evaluated with respect to the issues of employee and labor relations that I have identified. They should work with the existing unions at Northwest and where appropriate with existing unions at Delta, as they have, and they should identify how they are going to manage the representation process so that there isn't a long, prolonged conflict.

You can hold the company to those standards. Even if there isn't representation of Delta employees, there clearly is representation on the part of Northwest employees. They can have those discussions, they can identify a process, they can allow the democratic process of election go forward.

Chairman ANDREWS. Can I ask you one other question? If this was made a condition of the merger and then later there was a violation of the condition, what is the remedy?

Mr. KOCHAN. I think that is up to the—I would leave that up to the National Mediation Board. I would make sure that there are strong penalties associated with it. You can also have a process by

which the parties agree to arbitration if there is a violation. As some parties have done in pre-representation processes, they have a neutral arbitrator or a panel of arbitrators rule on violations, and then the arbitrators are responsible for coming up with the appropriate remedy to make people whole. I think that process could go forward very efficiently.

Chairman ANDREWS. I appreciate your answers to my questions, and I would turn to the gentleman from Minnesota for five minutes.

Mr. KLINE. Thank you, Mr. Chairman.

Again, thanks to all of our witnesses today.

Mr. Ford, in his testimony, Mr. Roach raised, kind of, an alarming picture. I believe he said that if sometime in the future a combined Delta-Northwest Airline were to fail, it would burden the PBGC with more than $15.6 billion in liability.

I was under the impression that a fair amount of that was funded and not unfunded. Do you know? Can you address that for us?

Mr. FORD. Yes, sir——

Mr. KLINE. Microphone.

Mr. FORD. Yes, sir, Mr. Kline. The number that Mr. Roach included I think is a gross liability number that in the unlikely, and we all hope, event that never occurs, if there were termination of the combined plans, the combined liabilities were over $15 billion. But that is not the burden on PBGC. The PBGC, when a plan terminates, takes the liabilities, and they take the assets. And you have to subtract the assets from the liabilities to get the net difference that would be the PBGC's responsibility.

So I think that would not add anything close to the $15.6 billion to the PBGC deficit.

Mr. KLINE. So, for example, there were $11 billion in the plans, then the liability of the PBGC would be $4 billion or $4.6 billion, something like that.

Mr. FORD. That is correct.

Mr. KLINE. Okay. I thought that was—seemed a little bit large.

Clearly, we are looking to see from a management perspective, and I would hope from a labor perspective, that we have a strong airline that comes out of this that would be less likely to have furloughs and so forth. Do you—but focusing strictly on retirement benefits, do you believe that the merger would make future retirement benefits for Delta and Northwest stronger or more in danger?

Mr. FORD. As I mentioned, and you can look at the big claims on PBGC, they have to do with financial distress of the companies and usually the whole industry that the pension plan existed in, not with respect, usually, with problems with the pension plan itself.

So the key here is that the boards of directors and the management of these companies who have a lot at stake and a lot of expertise in the industry have judged the merger to produce a stronger airline. I would say that a stronger airline means more secure retirement, and, more broadly, a stronger airline industry means more secure retirement across the airline industry.

Mr. KLINE. Okay. Thank you.

Mr. Kight, I want to continue on the same theme here. Is the likelihood that Delta or Northwest would have to terminate its re-

maining pension benefits less or greater in the face of these really unprecedented fuel prices if a merger is not consummated? Again, it is the question of strength.

Mr. KIGHT. Thank you. I agree very much with what Mr. Ford just said. The key here is the strongest company possible to be able to fund these benefits going forward.

Certainly, the challenges created by fuel have created challenges for everybody, but the point that we believe is the right one is that the combination of these two companies will make a stronger company, and that stronger company will be better able to fund these benefits going forward.

Mr. KLINE. And, therefore, better ensuring the likelihood that those pension benefits could be met. Well, we certainly would hope that was the case.

Now, it is, sort of, interesting here that the pilots are not represented here at the table. As I understand from talking to leaders in the Northwest side of ALPA, of that union, the union leadership on both sides has been supportive of this merger.

Is that correct, Mr. Kight?

Mr. KIGHT. That is correct. As Mr. Kochan has alluded to, and I did in my testimony, we have reached an unprecedented agreement with the leaderships of both ALPA units, both at Delta and at Northwest, for a joint contract when the merger takes place. And both leadership groups at both Northwest and Delta ALPA are very much supportive of the merger going forward, as are many Delta employees that I know of and speak with often.

Mr. KLINE. Well, thank you. I am—as I mentioned in my comments, I am concerned about the results of this thing. A lot of my constituents are employees of Northwest Airlines, and we, sort of, tremble at the thought of that icon leaving. But at the end of the day, if we maintain a strong hub and keep those jobs and the pensions are stronger, and that seems to be a point of some dispute here between the different witnesses whether those pensions would be in more or less danger because of this merger, that is a matter of some interest.

I happen to believe, having worked very hard on the Pension Protection Act, that a stronger airline would be more likely to be able to protect those pensions.

I see my time has expired, Mr. Chairman. Thank you.

Chairman ANDREWS. Thank you.

The gentleman from Michigan, Mr. Kildee, is recognized for five minutes.

Mr. KILDEE. Thank you, Mr. Chairman.

First of all, I would hope that the attorneys in the Justice Department who look at this merger were not chosen or screened by Monica Goodling. I hope there will be an objective decision made there. I do worry seriously about the Justice Department now, especially in the last few years.

Let me ask a question of Mr. Roach. Could you expand on your plea that Congress address the underfunding of PBGC?

Mr. ROACH. Yes. We—again, we met yesterday with the officials of PBGC and there is about a $13.1 billion deficit currently and $55 billion in assets. When they take in a plan they have to evalu-

ate those assets and possibly sell those assets off at the market value at the time of those assets.

Clearly, in the case of Northwest and Delta, they have had to go to the Pension Protection Act because they failed to properly manage those assets in the beginning. We don't know the quality of those assets today. The PBGC has taken on quite a few underfunded plans. If in fact Northwest and Delta merge, then there is a possibility of termination because the history of airline mergers has not been very successful. You cannot name very many airline mergers in aviation history that have been successful. Most recently, American Airlines and TWA.

So the more—with oil on the rise and with the possibility of pension terminations, there is a grave concern about how this is going to get funded. The officials at PBGC today are scrambling to change the asset mix, because they know under current circumstances, with current assets and the amount of people that are currently in these plans and the amount of people that can come onto these plans, there is a possibility—there is a strong possibility that they will, at one point, run out of assets to fund the liabilities.

And so it is a very important concern, especially when airlines that go into bankruptcy has been the history, which started—the major one was United Airlines that went and found a way to terminate all their pension plans even though they had a lot of assets, unencumbered assets, that the pension liabilities on the bottom of the totem pole, that they take care of the bondholders and the vendors and all these other people, and the employees and the PBGC are on the bottom of the list and usually wind up with 10 or 15 cents on the dollar and some sort of funny paper like CDOs that Fannie and Freddie have, that they cannot do anything with.

And so it is a very important concern, and it is a concern of the PBGC over people working very hard, and it is certainly a concern of ours. It is a concern of mine as a union representative, and it is a concern of mine as a participant in the PBGC. I believe Pat Friend and myself are the only ones that are participants. It is very nice to talk about how things are going to go along if it doesn't affect you.

One other point I would like to make is the fact that Mr. Kight indicated that these pension plans will be funded. Nobody has mentioned a multi-employer plan that the Northwest machinists are currently involved with. That is a good question, is that going to be funded? In the view of the fact that Mr. Anderson and Mr. Steenland have refused to talk to us, we haven't got an answer to that question, and that is the current plan that 12,500 machinist employees are currently involved with and stand to lose a considerable amount of benefits going forward if those plans are not funded.

Mr. KILDEE. Thank you for a very clear answer. Cornell educated you well. I appreciate that.

Let me also ask Ms. Friend, what should Congress do to address the general obligations of the successor employer? In other words, when you merge there is a successor employer. What obligations do they have to the one part of the merger? Should Congress address that in some way?

Ms. FRIEND. That issue is clearly addressed in our Northwest collective bargaining agreement, what the obligations are of the successor company. The difficulty that the Northwest flight attendants face here is that that negotiated protection is only as good as long as they retain collective bargaining rights. If, in fact, their collective bargaining rights, over 60 years of collective bargaining rights, are extinguished as a result of this merger, then they lose all of that negotiated protection.

It is, I think, a bit late in this process of this merger, although certainly going forward if there is further consolidation, what Congress should be considering, we believe, is reinstatement of some of the labor protective provisions that were discarded post the Airline Deregulation Act of 1978.

Mr. KILDEE. Thank you very much.

Thank you, Mr. Chairman.

Chairman ANDREWS. Thank you, Mr. Kildee.

The chair recognizes the gentleman from Louisiana, Mr. Boustany, for five minutes.

Dr. BOUSTANY. Thank you, Mr. Chairman.

Mr. Kight, sitting here today one might easily walk away with the conclusion that all of Delta and in fact Northwest's labor force, particularly its unionized workers, oppose this merger. Is that the case?

Mr. KIGHT. Not at all. As we have talked about already, the ALPA units of both carriers strongly support this merger. I have submitted—thanks to Chairman Andrews, submitted into the record today a statement of support by the Delta Board Council, a group of employees from each major work group elected by their peers to represent them to management and the board and many individual employees at Delta that I have talked to support it. I hear the same thing from my counterparts at Northwest in terms of a lot of employees who have great support for this merger going forward.

Dr. BOUSTANY. Thank you.

Also, Mr. Kight, if Delta was not permitted to merge, do you believe its employees would be better off in the short term or, more importantly, in the long term?

Mr. KIGHT. I don't believe that. I think this merger will make us stronger. Together, the combined companies will have almost $7 billion in liquidity. We will have the best balance sheet in the industry, the lowest debt. We will have a much better balanced revenue portfolio, kind of, in terms I can relate to. It is like having a well-balanced 401(k) portfolio. We will be in Asia, we will be in Europe, we will be in Latin America, all over the U.S., and so we will have a much better ability to withstand the various ups and downs throughout the world economies that affect travel so much.

Dr. BOUSTANY. Can you clarify for me; has any airline ever engaged its work groups in advance of a merger, as you have attempted to do with Delta and Northwest pilots?

Mr. KIGHT. We are not aware of that situation ever occurring before. We believe this is unprecedented in the history of the industry.

Dr. BOUSTANY. Thank you.

And one final question: Are you at liberty to describe any commitments you have made to Northwest employees about their futures with the company regarding jobs, salaries, benefits, so forth?

Mr. KIGHT. We have made the commitment very clearly that there will be no job losses on frontline employees as a result of this merger. I know Mr. Roach talked about reservation employees from Minnesota having to move to Atlanta. That is not what we have communicated to those employees at all; in fact, quite the contrary.

We have made numerous commitments on comp and benefits issues, including the granting of nearly 10 percent of the equity of the company upon closing to the employees of the company, commitments to move to industry standard pay and benefits, commitments to fully fund the frozen pension plans that exist at both companies, et cetera.

Dr. BOUSTANY. Thank you.

And, Mr. Ford, we have heard testimony that if a combined Delta-Northwest Airline were to fail, there would be the possibility that the responsibility for benefits under its pension plans would be thrust upon the PBGC. Let me ask you this: What would happen to these plans if, without merging, either of these carriers failed?

Mr. FORD. Exactly the same thing. The merger does not increase the exposure of the PBGC by a nickel. Each company has liabilities for pensions. The combination of those two numbers adds up to the same liabilities that the separate companies had before the merger. I think the issue is, what about risk. Does this improve the ability to avoid a termination in the first place? And the boards of directors of both of these companies with a lot at stake have determined that it does.

Dr. BOUSTANY. I appreciate that clarification.

And, finally, for Mr. Ford, what, if any, was the effect of Northwest airing and emergence—and emerging from Chapter 11 on its pension benefits? What was that effect? And has any Northwest employee lost any part of their accrued pension benefit because of this bankruptcy?

Mr. FORD. No. Again, because of your hard work on both sides of this committee and the Pension Protection Act provision for commercial airlines, Northwest was able to keep its pension plans. They are in existence today. The benefits people have earned under them up to the date of the PPA changeover have been preserved in full.

Dr. BOUSTANY. Thanks for that clarification.

Mr. Chairman, I yield back.

Chairman ANDREWS. Thank you very much.

The chair recognizes the gentleman from Illinois, Mr. Hare, for five minutes.

Mr. HARE. Thank you, Mr. Chairman.

Mr. Kight, I am a little confused, and maybe you could help me out here a bit.

You talk about the, and I was glad to hear the, Air Line Pilots Association, the two unionized groups and working those out. I am troubled by this: Is it Delta's position that the employees should not be able to vote in the representation election? Because let me just ask here: If an election is held for union representation fol-

lowing the merger, are you going to be encouraging employees to "rip up their voting instructions, give a rip, don't click, don't dial"? I mean, is this what we can expect for the employees that want to organize?

Mr. KIGHT. First of all, let me just point out that I am not the Railway Labor Act or NMB expert at our company.

Mr. HARE. Right.

Mr. KIGHT. I know that Richard Anderson has testified extensively about this before, and I would generally refer members of the committee back to that testimony.

Mr. HARE. Could you please maybe have him send a letter to—maybe to myself and members of the committee? I would like to know what Delta's position is if this merger were to occur in terms of are they going to be going out of their way, as they did, to give a rip, don't click and don't dial? I would like to know that, because I think that is terribly important for the people, and I think that has a lot to do with the merger.

Mr. Ford, let me ask you, is Northwest's position that employees should not vote in a representation election?

Mr. FORD. I am an ERISA lawyer. I don't speak for Northwest on labor issues for, among other reasons, I don't know anything about them. So I will have to defer that question.

Mr. HARE. Okay. Well, again, I would like to see if somebody from Northwest would be willing to give us something in writing. The whole point to having a representation election is giving people the opportunity. But when the company goes out and posts signs to rip up the ballots, don't click, don't dial, it seems to me to be going out of their way to do everything they could to possibly avoid people being able to be represented by—with a collective bargaining agreement. And I hope that that is not going to be part of the process.

Mr. Kight, going back to you, Mr. Roach brought up a question that he says he is having a very difficult time answering, and you couldn't answer the one on this, perhaps you can answer his.

He was asking about the pensions, I believe, Mr. Roach, correct, and you said you are having a difficult time getting an answer from anybody that would—is there any way you can answer Mr. Roach's question as to what that situation is going to be?

Mr. KIGHT. Certainly. The question that Mr. Roach asked, as I understand it, is that what will happen to—what commitments are we willing to make about the contributions that Northwest currently makes to the national pension plan of the IAM for IAM-represented employees?

First, it is important to understand that from the company's perspective, from Northwest's perspective, that contribution is essentially the same as a contribution to a DC, defined contribution plan. It is a flat percentage of payroll that is paid for by Northwest to the IAM pension plan. That percentage is about five percent of IAM-represented payroll.

In our system that we use, we contribute up to seven percent on behalf of employees. So, from our perspective, the level of contribution that Northwest makes to the IAM plan isn't an issue.

To the question of whether contributions will continue into that plan or not will be determined by the representation process that

will occur following the merger and whether the employees continue to be represented by the IAM.

Mr. HARE. Ms. Friend, let me just ask you this, as I know it is a hypothetical, but given—if the playing field were level and the flight attendants had an opportunity to vote in a representational election without the company going so far out of its way to rip up the ballots and do all this other kind of what I believe is clearly nonsense to do, people should have the right, it would seem to me, fundamentally, if you can decertify a union with 50 plus one, you should be able to join it with 50 plus one. You don't need all this outside effort going on.

Do you think the flight attendants without this probably would have had—do you think the results would be different?

Ms. FRIEND. I think they would absolutely be different. I mean, in face of this overwhelming campaign, voter suppression campaign, still, almost 40 percent of the Delta flight attendants did participate in spite of every effort by management to dissuade them from participating in the voting process. That and the archaic rules of the National Mediation Board, which requires participation by 50 percent plus one of the eligible units in order to certify a union conspire, really, to prevent employees having a free ride to join a union.

If we were to apply the national mediation participation standard to federal elections, I dare say that many of you would not be here today. [Laughter.]

Chairman ANDREWS. Is that a good thing or a bad thing? [Laughter.]

Mr. HARE. I was going to say, Mr. Chairman, that might get some people pretty happy back in my district.

I yield back. Thank you.

Chairman ANDREWS. Thank you.

I guess it depends, huh?

The chair recognizes the gentleman from Georgia, Dr. Price, for five minutes.

Dr. PRICE. I thank the chair, and I thank the witnesses for coming today. I want to commend each of you for your testimony, and I would just make an observation that the airline industry obviously is facing remarkable challenges, and I don't think any of us could envy the situation that the airlines are in.

I want to commend Delta Air Lines for their wonderful job in remaining a strong and vital corporate citizen in our area.

There seems to be a bit of a damper on this discussion. I want to just put a little positive spin on it, as Mr. Kochan tried to do, I think, with one of his possible outcomes of all of this isn't that the sky, no pun intended, is absolutely falling. I would suggest that the positive points to this merger could be that the goal of the merger would be to produce a more viable and more competitive airline carrier, and that the result of the merger should go forth with minimal, if any, job losses, and that the resulting merger would maintain a vibrant community and economic presence in Georgia, Minnesota and wherever else the two airlines currently operate.

I would suggest, Mr. Chairman, that it may be appropriate to have a hearing on southern hospitality and why wonderful relations have occurred between Delta and their employees.

And wondered, Mr. Kight, if you might be interested on commenting on the culture of the relationship between employer and employee at Delta Air Lines.

Mr. KIGHT. Sure. As I stated, it is—we have a uniquely cooperative relationship with our employees. It is one that is built on the belief that employees are the key to customer service and the key to providing great customer service to our customers. So it is one that we—relationship that we cherish very much, whether or not those employees are represented or not.

Dr. PRICE. In light of that, would you comment on the steps that Delta and the larger airline would take to ensure union representation and fair union organizing elections if the merger were allowed to go forward?

Mr. KIGHT. Sure. We are—again, I am not the representation expert at the company, but what I can tell you is that we are very, very much committed to employees being able to make a fair choice and an educated choice about whether or not to be represented. That is critical and something we very much believe and something that Mr. Anderson has testified to many times before.

Dr. PRICE. Would you comment—care to comment or expand on the comments that you have made about the steps that Delta would take to maximize existing job opportunities and new job opportunities with a new airline?

Mr. KIGHT. Again, this is a merger of addition, not subtraction. So what we believe very strongly is that the ability for us to leverage the strength of the networks that will be put together with these two carriers will allow us to grow this airline, not to have to shrink it so much, as is going on in so much of the industry.

So putting these two networks together gives us that ability to leverage that strength, to grow the airline in the future. That will produce more jobs, more career security going forward and, frankly, as we have discussed, more security for benefits because we will be a stronger airline, in general.

Dr. PRICE. I appreciate that.

I think it was you, Mr. Kight, although it may have been Mr. Ford, who talked about the benefit to employees being increased equity participation or continued equity participation, increased profit sharing, no involuntarily job furloughs and a fully funded PBGC contribution.

In light of that, would you comment on Delta's non-pilot pension plans post-merger and Northwest's pension plans, if you might?

And, Mr. Ford, if you would like to weigh in on that as well, that would be great.

Mr. KIGHT. Sure. As I said, we fully intend to continue funding our non-pilot plan. I know Northwest has been funding theirs, and we fully intend to fund those plans once the merger is consummated and we take them over.

The way we believe we are doing that, again, is through building a stronger airline, an airline that has more resources, better aspects for growth and therefore more financial strength. And as I think Mr. Ford has said very clearly, that is really the key to pro-

tecting pensions in the long run is having a strong sponsor of those plans that can continue to meet those obligations.

Dr. PRICE. I appreciate that.

I am about to run out of time, and I did want to get one question in to Ms. Friend just to put on the record that I do support the opportunity for employees to organize. I think it is important for them to have a vote on that.

Do you—and I know that you do as well—do you believe that that vote ought to be a secret ballot vote?

Ms. FRIEND. Well, it is a secret ballot vote.

Dr. PRICE. Good. I support a secret ballot vote as well. I am pleased that you do.

Mr. KOCHAN. Mr. Chairman, could I make a comment in response to Mr. Price's statement? I agree——

Chairman ANDREWS. Sure, a brief comment.

Mr. KOCHAN. Very brief. The upside potential is there, but if past practice continues without some fundamental change in the approach that the companies and the unions in this industry have taken in the past, then you are going to see a deterioration of the kind of culture, you are going to see an increase in conflict, and you are going to see a deterioration in the performance of this merged airline. It is going to take a proactive effort to get the positive scenario to occur.

And that is the main point that I want to make here, that unless there is some change in the way in which organizing has been handled at Delta in the past, we are not going to see the kind of positive outcomes that we all hope for.

Chairman ANDREWS. Okay. Thank you.

Dr. PRICE. And, Mr. Chair, just respond very briefly to that. And I appreciate that comment. And I think that what we have heard from the principals involved in this process is that their desires of that change and of moving that process forward. And I appreciate that.

Chairman ANDREWS. We might want to give Ms. Friend a chance on the record here.

I believe that Ms. Friend's answer to your question, Dr. Price, was "It is a secret ballot."

Do you favor a secret ballot in all circumstances or do you favor card check registration, Ms. Friend?

Ms. FRIEND. Well, we favor card check recognition, obviously. It is not, at this point, on the agenda for workers covered by the Railway Labor Act, but the issue in these elections, in this Delta election in particular, is not a question of is it a card check or is it a secret ballot, it is the question of denying people the opportunity to participate at all in the democratic process.

Chairman ANDREWS. I understand. I just wanted to be sure the record reflected her statement, not your characterization of her statement.

Dr. PRICE. And the record is, I guess, that Ms. Friend doesn't support a secret ballot.

Is that the record that you want to reflect?

Chairman ANDREWS. She is going to speak for herself. I just want to give her the chance to do that. She doesn't need either of us to characterize her remarks.

Dr. PRICE. Well, I am pleased to support a secret ballot, Mr. Chairman.

Chairman ANDREWS. And I—you don't need me to characterize your remarks either, but I would like to. [Laughter.]

Mr. ROACH. Mr. Chairman, can I comment on that?

Mr. Chairman, can I comment on——

Chairman ANDREWS. Very briefly.

Mr. ROACH. There is a process in the National Mediation Board rules where during a merger authorization cards or cards could be checked to certify a labor organization if all the parties agree, if the carrier would agree. So there is that process in place today.

Chairman ANDREWS. Thank you, Mr. Roach.

The gentleman from Iowa, Mr. Loebsack, is recognized for five minutes.

Mr. LOEBSACK. Thank you, Mr. Chair.

Thanks to all the witnesses today.

Just a couple of preliminary comments. I want to thank Delta and Northwest for their service. I live in Mount Vernon, Iowa. It is about 20 minutes from Eastern Iowa Airport, and while there are no direct flights to National Airport, there are a number of carriers that I can choose from, and I often fly on Delta, and I also fly on Northwest.

I am hoping that if this merger were to go through, that service will be sustained, and my constituents, certainly, are very concerned, obviously, that any kind of change along these lines might result in fewer options, and I hope that is not the case. I just want to state that for the record, obviously, for my constituents in eastern and southeastern Iowa.

Also, I do want to just state we have got some anecdotal evidence, it sounds like to me, as far as what employees from Delta, for example, might think about some merger—a merger in the future. And I have been doing my own kind of informal polling when I have been on the plane with folks, and those who are not at the moment organized on Delta would like to see them become organized if this merger does happen. Those on Northwest flights who are organized are very fearful that they are going to lose those rights as a result of this merger.

So that is purely anecdotal. I am a former social scientist. Don't take this as any kind of a scientific sampling, but I have been talking to as many of these employees as I possibly can in light of this proposed merger while I have been flying back and forth.

I would, Mr. Chair, like to submit for the record a report from—this is the Delta Air Lines Retirement Committee. It is called, "The Evolution of Non-Contract Delta Air Lines Retiree Benefits," and Mr. Kochan has quoted one of their comments in this report in which they state, "For nearly two decades, the early retirement benefit packages promised by Delta Air Lines have been continually stripped away from the non-contract group of retirees."

I would like to submit this report for the record, if I could, Mr. Chair.

Chairman ANDREWS. Without objection, so ordered.

Mr. LOEBSACK. Thank you.

Now, I do have a question—a couple of questions, or I should say the same question for Mr. Kight and Mr. Ford. You may or may

not be aware that the NMB recently issued proposed changes to the representation manual. One set of changes only apply in the case of a merger of a union carrier and non-union carrier. These changes appear to set a new standard for when the NMB will extend the union certification to the newly merged company.

To Mr. Kight, are you aware of any communications between Delta and the NMB regarding these proposed changes before they were issued on July 15, this year?

Mr. KIGHT. I am not aware of those. I am not the RLA expert at Delta, and so I am not aware of any of that.

Mr. LOEBSACK. Thank you, and the same question to you, Mr. Ford.

Mr. FORD. No, I am not, and, again, for the same reason. I am an employee benefits lawyer.

Mr. LOEBSACK. Okay. Thank you.

Mr. Kight, you mentioned that—I can't recall the number of employees of Delta who are covered by defined benefit plans. What was that number again?

Mr. KIGHT. It is 91,000.

Mr. LOEBSACK. And how many total employees do you have?

Mr. KIGHT. Total employees, we have now about 50,000.

Mr. LOEBSACK. Okay.

Mr. KIGHT. That includes the retirees.

Mr. LOEBSACK. Okay. I am confused. So you have 91,000 retired employees who are covered?

Mr. KIGHT. No. You said the total covered, both active and retired, are around 91,000 for the plan, but we have about 50,000 active employees.

Mr. LOEBSACK. And what percentage of those are covered by defined benefit plans? Or how many of those?

Mr. KIGHT. All of the 50,000, other than pilots, who are not, and there are about 6,000 pilots.

Mr. LOEBSACK. Okay. Thank you.

Ms. Friend, can you elaborate a little bit on—you know, you mentioned the number of anti-union tactics employed by Delta. Can you elaborate on that a little bit?

Ms. FRIEND. I can. I mean, and it begins when the Delta flight attendants attempt to organize themselves into achieving a union, and the law gives them access in non-work areas to talk to their peers. And so the process of, sort of, pushing back from management begins by literally pushing these flight attendants into a corner and surrounding them by members of management, sort of, intercepting any Delta flight attendant who might want to come and talk to their peers about what it would be like to have a union.

I mean, suddenly in these non-work areas, the places where the flight attendants go to check in for their flights, appear supervisors they have never seen before, popcorn machines, all kinds of treats, any kind of distraction, and it just—it escalates from there.

But the truly most distressing part was during the actual voting period where each of these locations where flight attendants have to report to work they are huge banners and posters with the words that Mr. Hare has showed us, "Give it a rip, tear up your voting instructions." Voting is by Internet or telephone, so you have the, "Don't click, don't dial," because they know that every person

who is persuaded not to participate in the democratic voting process, which is a secret ballot, counts as a “no” vote under the National Mediation Board rules.

So it is astounding, really, that almost 40 percent of these flight attendants managed to resist this constant pressure for a period of—for weeks persuading them. And, you know, and in the midst of it, you know, the announcement comes that—and the count date was the end of May. So during the voting process, an announcement was made by management that on July the 1st all non-contract employees will get a three percent raise. Of course, that raises the question, “So if I vote for the union, and now I am not a non-contract employee anymore, do I get that raise?

So just these—you know, some subtle and a whole not so subtle voter suppression.

Mr. LOEBSACK. Thank you.

Thanks, Mr. Chairman.

Chairman ANDREWS. The gentleman’s time has expired. Thank you.

The chair is pleased to recognize a member of the full committee who is joining us for our subcommittee hearing today, the gentleman from Utah, Mr. Bishop, for five minutes.

Mr. BISHOP. Thank you, Mr. Chairman, for allowing me to sit in on this particular panel. I appreciate that kindness.

I apologize for not hearing the direct testimony, but thanks to our wonderful time management systems, there was written testimony, which I had a chance to read last night. And I was not here for all the questions, so I become redundant on those, I apologize as well. But there are a couple that I would like to make sure that I specifically understand as well.

And Mr. Price talked about where Delta is significant. Most people think Mr. Matheson in Utah actually represents the international airport. It is in my district, so the hub there in Salt Lake City is of significant importance to the economy of the state of Utah, so it is important to me.

Mr. Kight, if I could ask you a couple of questions, and I am assuming it was part of your testimony, but I want to be very clear on this. How significant is the increase in the cost of fuel to Delta’s survival, and is this merger with Delta going to assist in that survival?

Mr. KIGHT. Obviously, the doubling of the price of fuel has had a dramatic impact on Delta, it has had a dramatic impact on Northwest and really all carriers, and so it isn’t the very significant event that we are all struggling to deal with.

We firmly believe that this merger will help us deal with that issue. It will make the carrier stronger, it will—the combined carrier will have approximately $7 billion in liquidity. We will have the best balance sheet in the industry, the lowest debt; we will have a much better balance and portfolio of geographies that we fly——

Mr. BISHOP. Even though both of you went through Chapter 11 reorganizations.

Mr. KIGHT. That is correct.

Mr. BISHOP. Okay, then. How is this different than the US Air hostile takeover, which I opposed?

Mr. KIGHT. Yes. The US Air deal itself was all about reduction in service. It was significantly overlapping networks that would have reduced services, reduced jobs, threatened the security of the company, and it is for that reason that we opposed it very strongly, and our employees oppose it very strongly as well.

Mr. BISHOP. Thank you. Ms. Friend, if I could ask a couple of questions, because even though for a time I wasn't AFL-CIO, I realized every election is different. Can you just describe for me very quickly how the NMB counts votes in these types of organizational elections?

Ms. FRIEND. Yes. They only count the votes that they receive, and the ballot is not a yes-no ballot. The ballot has the name of the organization that has demonstrated a sufficient showing of interest, and thus is on the ballot, and it also has a place for the employee to write in another ballot organization. In other words, in our most recent vote, our name was on the ballot. In the write-in, some flight attendants wrote in, the Transport Workers Union, one flight attendant even wrote in the Air Line Pilots Association, and those votes are counted as a vote for a union.

So you need——

Mr. BISHOP. But not specifically. They won't be divided as to which union is the answer.

Ms. FRIEND. Well, they are. They are divided as to which union, but, first—first, the employees have to meet the arbitrator threshold that the Mediation Board has set. So, in other words, they have to—they first count the number of valid ballots they received, and if that number does not reach the threshold of 50 percent plus one of the eligible units, then no unit is—no union is certified. If it does reach that threshold, then the union receiving the most votes is certified as the union.

Mr. BISHOP. What happens if a ballot is sent in that requests no representation?

Ms. FRIEND. There is—it is not a yes-no ballot.

Mr. BISHOP. So it would count as representation.

Ms. FRIEND. The way that employees vote no is they don't vote.

Mr. BISHOP. But if, for example, some employee were to send in a ballot and said, "I do not want representation," that would be counted then as a yes if the ballot went in. That is my assumption.

Ms. FRIEND. No. It would be counted as an invalid ballot.

Mr. BISHOP. Okay.

Ms. FRIEND. It would be thrown out.

Mr. BISHOP. I understand also that NMB in this recent election enjoined some of the practices of the AFA. Can you tell me what was prohibited?

Ms. FRIEND. Yes, I will tell you what was prohibited. We—once the ballots were sent out—as I said, it is an Internet voting or telephone voting—on our Delta flight attendant Web site, we put a link so flight attendants could click on that link and it would take them to the voting site, which is managed by a third party, by a company called, Ballot Point. They do Internet voting and telephone voting, and they do it for the National Mediation Board. So we put a link to go there.

The Mediation Board—Delta management objected, and the Mediation Board upheld their objection. Their objection was that it

would be possible for us to get behind that link and find out how many people had actually clicked on that link, and then we would know how many people had already voted, and then we would—that would tell us whether or not we needed to step up our get out the vote campaign.

Mr. BISHOP. So what was the reaction for the union after that enjoinment? What did you do to—I mean, what did you do then?

Ms. FRIEND. We took it down.

Mr. BISHOP. Okay.

Ms. FRIEND. Over our objections.

Mr. BISHOP. I appreciate that. The final vote then, I understand, was 39 percent for representation?

Ms. FRIEND. It was 39.2 percent.

Mr. BISHOP. Okay. And, once again, anything that had anything other than a vote for representation is counted as an invalid vote; is that correct?

Ms. FRIEND. Right. They can either mark the ballot that says, "I wish representation by the Association of Flight Attendants—TWA," or on the line below that they can write in, "I wish representation by," and if it is a valid registered union, it will count as a valid vote toward wanting union representation. If it says, "No one," or if it says, "The Delta Employee Involvement Group," the National Mediation Board does not count it. They invalidate that ballot. That is their rule.

Mr. BISHOP. Okay.

Chairman ANDREWS. Gentleman's time——

Mr. BISHOP. No, I thank you for explaining that process to me. Thank you very much for your kindness in allowing me to ask questions.

Chairman ANDREWS. You are very welcome.

The chair is pleased to recognize the gentlelady from New York, Ms. Clarke, for five minutes.

Ms. CLARKE. Thank you very much, Mr. Chairman, ranking member.

This is a very important hearing. I think it speaks to where we are going as a nation with regard to how we are going to revolutionize the way we treat workers. And I have a couple of questions that—because I represent Brooklyn, New York in the 11th congressional district, and I travel through LaGuardia Airport where Northwest and Delta share the same terminal. Though LaGuardia is not in my district, workers employed by both airlines reside in my district.

So here is what I need to know: What kind of impact will this merger have on the employees of Delta and Northwest who work at LaGuardia and live in my district? What will be their fate?

I would like to direct this question to Mr. Kight and to Mr. Kochan. I want to know what proactive efforts should be taken to reassure that these jobs are retained in the merger.

Mr. KIGHT. Thank you. We have made it very clear that there will be no frontline employee furloughs as a result of this merger. The employees that you speak of that work at LaGuardia would be considered frontline employees, and so we have made it very clear, as a commitment from the very beginning, that there will be no job furloughs in that group as a result of the merger.

In terms of other impacts for those employees, again, what we have committed to are things like a significant equity stake in the company for all employees, almost 10 percent of the company, in the form of unrestricted stock that we will give to them upon closing, moving them to industry standard pay and benefits over time, fully funding the pension plans that they are—the frozen pension plans that they are members of, continued commitment toward competitive health care and other benefits.

Mr. KOCHAN. Thank you. I think the most important thing that will determine the impact on the employees at LaGuardia and elsewhere is whether the organization will be financially sound, successful and able to provide the service customers expect.

I strongly believe that unless the kinds of issues that we have been talking about here, unless the issues around how the representation process will be handled, around how the cultures of these two very different organizations will be integrated and be addressed, how the process for negotiating new agreements and resolving differences and adjusting compensation in an equitable way relative to the performance of the organization and to other groups in the organization and the industry are addressed, then I—if those issues are not addressed, these employees will be at risk.

If they are addressed effectively, I think it will improve their security and their prospects for their long-term welfare.

Ms. CLARKE. Mr. Kight, I want to go back to the reassurance that has been so touted. I know Mr. Anderson spoke and testified before the House Judiciary Committee where he reiterated this reassurance of frontline people will not—that there will not be any involuntarily furloughs as a consequence of the merger. How can Mr. Anderson say with certainty that there will be no involuntarily furloughs, and what will Delta do if the Department of Justice requires it to divest in some of its hubs as a prerequisite to the merger approval? If this is the case, will Delta stand by its statement of having no involuntarily furloughs?

Mr. KIGHT. We believe strongly in that commitment, primarily because this is a merger of addition and not subtraction. The root networks of these two carriers are very complementary, they don't overlap, and we believe that that is a very key point in this merger.

Again, what we have said is there won't be any furloughs of frontline employees as a result of this merger.

Ms. CLARKE. And you all really stand by this, notwithstanding what could happen if you have to divest in some of your hubs?

Mr. KIGHT. I am not familiar with the potential for that, and so I don't know the answer, but we would be happy to follow up on that if I can.

Ms. CLARKE. The lighting system seems to have gone blank here, so I am not certain where my time is, Mr. Chairman, but I just want to close——

Chairman ANDREWS. Just a few more seconds, yes.

Ms. CLARKE. I want to close by saying that I hope that you have heard what Mr. Kochan has said. Ultimately, at the end of the day, representation of these workers is just as important as all of the corporate restructuring that you are about to do. Without proper representation of these workers, without their ability to negotiate and be part of the remaking of this particular airline, and I believe

overall the industry, I don't see how you create the win-win here. And, ultimately, in the 21st century, that is the expectation, that we are looking at win-win, not just imposing what you believe will be a successful airline but getting the buy-in of all who are employed to be a part of that.

Thank you very much, Mr. Chairman.

Chairman ANDREWS. Thank the gentlelady, and pleased to recognize the gentleman from New Jersey, Mr. Holt, for five minutes.

Mr. HOLT. I thank the chair, and I thank the witnesses for good testimony.

Mr. Kochan recommends that pre-merger discussions should take place to resolve labor issues before any merger.

Mr. Roach and Ms. Friend, have you requested such discussions from the airlines, and have they or are they—have they taken place or are they taking place?

Mr. Roach first.

Mr. ROACH. When the merger was announced, we sent letters to Mr. Anderson and Mr. Steenland and indicated that we thought it was a good idea that they have discussions with us about the potential merger and the effects, and we have not heard from either one of them.

Mr. HOLT. Ms. Friend?

Mr. ROACH. They haven't discussed anything with us.

Ms. FRIEND. We obviously reached out as well as soon as the merger was announced. Sadly, we have heard from them, and what we heard from Mr. Steenland was, "We have nothing to talk to you about, because it is the intention of the management of new Delta that when the merger is completed there will be no union for the flight attendants. So there is no point in us meeting." And we have made repeated requests for meetings to discuss the progress of the merger and how it affects us, and the answer is still the same, "There is no seat at the table for you."

Mr. HOLT. If there is time in my question period, I will ask Mr. Kight and Mr. Ford if that is because the companies do not agree with Mr. Kochan that this is advisable to have these pre-merger discussions.

But let me ask Mr. Kochan, there has been a lot of talk about fuel prices, Chapter 11, difficulties in the industry. Are employees being collectively organized under unions an optional luxury that should be considered only in times of prosperity?

Mr. KOCHAN. Well, it is the policy of this country to allow employees to have a voice of their own choosing at our workplaces. That is not a luxury, and it isn't something that is only appropriate in good times. It is even more important during stressful times, during difficult times. The evidence is very clear over a long period of time, in this industry and elsewhere, that represented employees fair much better than non-represented employees during difficult times, during times of recess or financial stress, because you can work out solutions that, as Ms. Clarke indicated, are potentially win-win. And we have seen this in isolated examples in the airline industry.

We point specifically to Continental Airlines, which had, as we all know, a horrendous time in the 1980s—in bankruptcy twice—and in 1994 a new management team at Continental took over that

said, “We are going to recognize the right of employees to be represented, and, in fact, we are going to work with them cooperatively to try to build a high quality labor-management relationship.” It has been very successful.

Mr. HOLT. And you base your observations here on historical study.

Mr. KOCHAN. On historical study. We have studied this industry for—intensively for the last eight years.

Mr. HOLT. Thank you.

Mr. KOCHAN. It happens to be an industry I have studied more informally before that, but we did specific historical case studies, in-depth case studies at Continental and at several other airlines to document how they brought themselves out of the financial stress of bankruptcy, rebuilt the airline, rebuilt high levels of customer service, became one of the 100 best companies to work for in America and recognized its unions, reached agreements at half of the time it takes to——

Mr. HOLT. Thank you very much. That is well put.

Mr. KOCHAN [continuing]. In the industry.

Mr. HOLT. Let me turn to Mr. Kight and Mr. Ford. I have a letter from the Pension Benefit Guaranty Corporation to the CEOs—addressed to the CEOs of Delta and Northwest, dated four months ago, expressing the PBGC’s interest that the merger talks consider the pension plans, because the Pension Benefit Guaranty Corporation has doubt that there would be sufficient funding. In fact, the merged airline would have pension obligations totaling something like $16 billion for 160,000 retired and active employees. Already, Delta has terminated its pilot pension plan, which had almost $5 billion in liabilities.

To what extent are the merger discussions considering this and how would a merged carrier ensure that the pension funding obligations would be met going forward?

Let me start with Mr. Kight.

And, Mr. Chairman, may I submit for the record this letter to the—from the PBGC to the CEOs?

Chairman ANDREWS. Without objection.

[The information follows:]

DELTA

Robert L. Kight
Vice President
Compensation, Benefits & Services

Delta Air Lines, Inc.
Post Office Box 20706
Atlanta, GA 30320-6001

March 14, 2008

Charles E. F. Millard, Director
Pension Benefit Guaranty Corporation
1200 K Street, N.W.
Washington, D.C. 20005-4026

Dear Mr. Millard:

Thank you for your letter of February 28th, 2008. While we do not comment upon media speculation about potential transactions, we have repeatedly stated to our employees that one of our five guiding principles is that in any transaction, the pension plan of our employees and retirees be maintained. In this, our interests are clearly aligned with those of the PBGC.

As you are aware, Delta and its employees, both active and retired, played a pivotal role in passage of the 2006 Pension Protection Act. We are proud of our efforts in this regard, as passage of the PPA with the alternative funding schedule was the determining factor in allowing us to preserve our defined benefit plan for flight attendants and ground employees during the bankruptcy process. With the alternative funding schedule, we are confident of our ability to return the Delta Retirement Plan to robust financial health, regardless of whether or not industry consolidation occurs. Indeed, as you may know we have made all required contributions to our Plan since exiting bankruptcy – even making contributions monthly rather than at quarter's end – and we fully intend to continue meeting these obligations going forward.

I am glad that you found constructive and fruitful both Delta's dialogue with the PBGC during its reorganization as well as our current responsiveness to your requests for updated information. Should you require additional information about our Plan or our views on how a potential transaction might impact our Plan, please do not hesitate to let me know.

Cordially,

Original signed by:
Robert L. Kight
Vice President – Compensation, Benefits & Services

PBGC
Protecting America's Pensions
Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

Office of the Director

February 28, 2008

Douglas M. Steenland
President and Chief Executive Officer
Northwest Airlines, Inc.
2700 Lone Oak Parkway
Eagan, MN 55121

Richard H. Anderson
Chief Executive Officer
Delta Air Lines, Inc.
P.O. Box 20706
Atlanta, GA 30320

Dear Messrs. Steenland and Anderson:

As you know, the Pension Benefit Guaranty Corporation is a United States government agency created under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") to administer the termination insurance program for defined benefit pension plans. Northwest and Delta both sponsor major defined benefit plans -- covering more than 160,000 workers and retirees -- that are insured by PBGC. Significantly, both Northwest and Delta have elected to benefit from a special rule in the recent Pension Protection Act that allows them to stretch out payments required to amortize pension liabilities. Further, the plans do not have enough assets to pay all promised benefits: if the plans were to terminate they would be underfunded by over $7 billion.

For these reasons, PBGC has been closely monitoring the recent news concerning potential mergers in the commercial airline industry and particularly, the possible combination of Northwest and Delta. With so many plan participants and so many billions of liabilities at risk, PBGC has an obligation to ensure that any merger discussions between Northwest and Delta take into proper account the consequences for the pension plans your airlines maintain.

To that end, I believe -- and I trust you agree -- that PBGC's engagement will be necessary, important and helpful to ensuring that all appropriate considerations with respect to the continued health of the airlines' defined benefit pension plans are addressed. I hope you share my enthusiasm for and commitment to continuing the open and fruitful dialogue that PBGC, Delta and Northwest enjoyed during the recent reorganization proceedings completed in 2007. My staff has advised me that, at our request, you are in the process of providing updated information on your pension plans, and that we may make additional follow-up information requests in the near future.

Messrs. Steenland and Anderson
Page 2

I look forward to working with each of you as this process takes further shape.

Sincerely,

Charles E.F. Millard
Director

Mr. KIGHT. I remember that letter well and helped draft our response to it. We do believe very much that this merger will help strengthen our ability to meet our obligations to those pension plans that we have at Delta and the plans that we will assume responsibility for from Northwest.

Mr. HOLT. Do you have a reply to that letter that you would care to submit for the record?

Mr. KIGHT. Certainly. I don't have it with me, but I will have to get you a copy.

Mr. HOLT. Thank you.

Mr. KIGHT. So we believe very strongly that this merger will help our—enhance our ability to meet those obligations going forward. We—as Mr. Ford has testified eloquently, what is important here is a strong sponsor of these benefit plans, and we believe that with the challenges that our standalone companies are facing in this industry, combining together makes us stronger makes us more financially viable and gives us a better footprint from which to fund these benefit obligations going forward.

Mr. HOLT. Thank you. My time has expired. Mr. Ford's response will be only at the chairman's discretion.

I thank the chairman.

Chairman ANDREWS. We will give Mr. Ford a moment to respond, of course.

Mr. FORD. I think that letter is an indication of the systems working. The PBGC is being vigilant, they are scrutinizing the transaction, and they note in that letter that they have already received information. Our response makes it clear they will continue to have information to scrutinize the transaction, and we welcome that scrutiny. We have cooperated with it, and we have every confidence that the agency will be comfortable with the transaction.

Chairman ANDREWS. We thank the witnesses for their comments.

I would ask if the ranking member has any concluding remarks?

Mr. KLINE. I would just like to also thank all the witnesses for coming. As I mentioned earlier, I know some of you traveled a long way. This is a panel of experts, and we are glad to have such a panel.

Unfortunately, as I mentioned in my opening comments, much of what we have talked about today doesn't come under the jurisdiction or purview of this committee. It is interesting to us, however, in particular discussion of the pensions for which this committee

and the full committee have worked an awful lot in the last few years.

So thanks again for your testimony and for the good, crisp, clear answers to the questions.

Chairman ANDREWS. Thank you.

I hear the—I would also like to thank the witnesses for their participation today, and I look at this discussion through two perspectives. One is a deep and abiding concern, irrespective of jurisdiction, that people be treated fairly, and that most especially goes to those relying upon pension plans, who have built their lives around these assumptions that their lives are not shattered by change of circumstances beyond their control, and, second, that those who are employees and shareholders and others affiliated with an airline are treated fairly in the conduct of the business.

I walk away from this hearing with two lessons learned. The first is, I believe there are profound pension issues involved here. I think that there is profound interest from the point of view of the PBGC, which is expressed in the letter that Mr. Holt made reference to, and we hope that all the parties involved will conduct themselves in accordance with those concerns.

And, second, I think that one point of consensus is that a process that is inclusive, that is consensual, that involves all voices in a rational way will tend to lead to a stronger outcome in terms of employment, in terms of pension stability, and I would hope that the Justice Department would heed the voices that we have heard today and conduct its review of this merger with those considerations in mind.

I guess, finally, to add a third point, I think there is some basis for us to consider the proper legislative response, not simply to this merger before us but to the generic question of whether the criteria which the Justice Department must take into consideration are adequately robust. And that goes beyond the jurisdiction of this committee to some extent, but I am sure that these kinds of mergers, not just in the airline industry, are going to become the norm.

And I think it is very important that all concerns are taken into account, not simply as a matter of discretion, so we are not dependent upon the ideology of the given attorney general, but as a matter of course so that these legitimate concerns can be raised.

As previously ordered, members will have 14 days to submit additional materials for the hearing record. Any member who wishes to submit follow-up questions in writing for the witnesses should coordinate with the majority staff within 14 days.

Again, I thank the witnesses for their excellent participation, and without objection, the hearing is adjourned.

[The statement of the Aircraft Mechanics Fraternal Association, submitted by Mr. Andrews follows:]

Prepared Statement of the Aircraft Mechanics Fraternal Association

Safety in the air begins with quality maintenance on the ground

I am Stephen MacFarlane, National Director of the Aircraft Mechanics Fraternal Association (AMFA), a craft union representing nearly 5,000 aviation mechanics and related at Alaska, Southwest, Northwest (NWA), Mesaba, and Horizon. AMFA represents over 900 mechanics at NWA, and over 200 at Mesaba one of NWA's regional subsidiaries. I am writing to share my organization's concerns regarding mergers and consolidation within the airline industry, specifically the proposed deal between

Delta and Northwest. Having worked in the airline industry for twentyfive years and lived through two mergers, Hughes Airwest/Republic and Republic/Northwest, I can attest first hand to the harm that can befall workers caught up in airline mergers.

AMFA understands that consolidation within the industry is likely, and we are not necessarily opposed to consolidation per se, however, AMFA believes there are facts surrounding the DeltaNWA pairing that need to be addressed. These issues include, but are not limited to:

- Billions of dollars in outstanding pension obligations
- Current and potential future union representation at the combined carrier
- The potential wave of mergers stemming from the approval of the DeltaNWA deal
- Promises made by management teams to garner political favor for deals that turn out to cause great harm, such as pledges to keep all hubs, employees, and small community air service.

Having endured devastating job losses and drastic reductions in pay and benefits coerced from airline workers throughout the industry over the past five years, we can't help but flinch at the prospect of another corporate tactic that has the potential of delivering yet another blow to the livelihoods of airline workers. Prior to the attacks of 9/11, AMFA represented nearly 10,000 mechanics and related at NWA. Immediately after the attacks, tens of thousands of frontline airline employees at numerous carriers were laid off, including about half of AMFA's NWA population. Today, the number stands at 910. AMFA members in Minnesota numbered over 6,000 during the late 90's alone. These workers earned above average wages, owned homes, and contributed significantly to the economy of Minnesota and the nation as a whole. There are now only 615 AMFA NWA mechanics left at MinneapolisSaint Paul (MSP) and 300 left in Detroit (DTW). Most of these mechanics reside in other states, spending their earnings outside of Minnesota and Michigan.

Former mechanics have, in many cases, moved on to lowerpaying jobs and turned to refinancing homes or other forms of debt to sustain their families, and in turn degrading the economic quality of the region as a whole. This is not a sob story or anything of the sort. Rather, this scenario shows that for all the numbers thrown around about how vital the airlines are to our economy both micro and macro the benefits must add up to more than simply the ability of a select few residents with proximity to a certain airport to be able to fly to Mexico City via Salt Lake City. With no economic base to support leisure travel and the forecasted "1520% rise in ticket prices"[i] needed to offset soaring fuel prices, the current crisis in the industry will expand to the point where a majority of the American middle class will find air travel costprohibitive.

The government has provided great assistance to the airline industry during difficult times in the form of the ATSB, whereby $5 billion in taxpayer dollars was given to the industry without any guidance as to how the airlines were to spend the money. Another $10 billion was made available for loans to assist the ailing industry. While this was laudable, no help was forthcoming to the tens of thousands of workers who lost their jobs.

Additionally, federal bankruptcy laws, which were never intended to be used as a strategic tool for competitive purposes, were turned against workers as federal judges aided executive management teams in extracting severe, painful, and permanent concessions from American airline workers. Pensions were defaulted, work rules changed, workforces reduced by thousands, wages slashed, and so on. We acknowledge the value and benefit of having a viable airline industry that provides great mobility and swift commerce for our nation; however, this goal must not come at the cost of a stable and productive middle class that contributes to the economic vibrance and tax base of the American economy.

Now, as we enter the era of Open Skies and megacarriers, the need for scrutiny grows. NWA and Delta claim that employees will be given a 4% stake in the merged company. Employees at United Airlines can attest to the perks of ESOP programs, where $250,000 in stock yielded a $1200 payout. This merger does nothing to allay concerns of future bankruptcy filings, and future financial distress. In fact, the cost of merging has been reported to be somewhere near $1 billion. Given the combined $10 billion in losses by NWA and Delta in the first quarter of 2008, it seems the carriers need all the money they can get. Even without "onetime" costs of $6 billion for Delta and $4 Billion for NWA, the two have reported deep losses, largely due to $124/bbl oil, for the second quarter, with NWA $377 million in the red and Delta exceeding an astounding $1 billion in losses. Oil and refined fuel commodity prices will not decrease with the formation of the largest airline in the world.

[i] Delta CEO Richard Anderson quoted by Associated Press. USA Today April 22, 2008

With this merger, the company will have a fleet of over 800 aircraft, with the only overlap in aircraft type being the Boeing 757200 (Delta 131; NWA 16).[ii] This means the combined carrier will have 19 different and unique aircraft, and a fleet that will be one of the oldest in the industry. The companies have said that the carrier will be able to right size aircraft to specific routes, and park older airplanes, but both airlines have stated their individual intentions to do this in the next year anyway, as well announcing cuts in mainline capacity. The costs of the merger procedure fly in the face of the actions the companies are taking independently.

Just this past April, Delta, NWA, Air FranceKLM, CSA Czech Airlines and Alitalia were granted antitrust immunity for their international codeshare alliance operations as part of the SkyTeam Alliance. This, combined with Stage I of the USEU Open Skies Agreement (OSA), appears to be leading to the creation of global megacarriers, and with it, the gradual erosion of the traditional airline employee. If not for US ownership and actual control restrictions, it is highly likely that trans-Atlantic consolidation would have been realized already. These guarantees are under siege as well, as Stage I of the OSA stipulates that if the US does not liberalize its ownership requirements for a Stage II agreement, Stage I will be negated and withdrawn.

While many employees would likely welcome being part of the world's largest air carrier, that endorsement must come with tangible benefits. Since 2001, airlines have laid off over 150,000 employees, defaulted or demurred over $20 billion in pension obligations, and lost more than $29 billion. These facts show that something fundamental must change. But, how does this merger, and AMFA is not against Delta and Northwest merging. However, we are hard pressed to see how this betters the industry and its employees. At the minimum, Delta's mechanics must be given a fair chance to vote on representation. AMFA has received a significant number of NMB cards, and stands to vie for representation in the event that this merger is approved. If the workers of the merged carrier choose no representation through a vote, then so be it. On the other hand, we feel that in the current environment of high fuel prices and a stagnating economy, the mechanics at a combined DeltaNWA will find that as atwill employees they will have little recourse against the slashandburn management tactics that will be utilized by DeltaNWA management to handle the rapidly changing commercial aviation sector.

We hope that all the promises made by Mr. Steenland and Mr. Anderson come to fruition and this merger is a positive for everyone involved. Sadly, though, rank and file airline employees have been down this road before and historically it has ended with thousands of layoffs and a few golden parachutes at the top.

[Questions for the record and subsequent responses follow:]

U.S. CONGRESS,
Washington, DC, August 4, 2008.

ROB KIGHT, *Vice President—Compensation, Benefits and Services,*
Delta Air Lines, Inc., 1060 Delta Boulevard, Atlanta, GA.

GARY FORD, *Attorney,*
Groom Law Group, Pennsylvania Avenue, NW, Washington, DC.

DEAR MESSRS. KIGHT AND FORD: Thank you for testifying at the Wednesday, July 30, 2008 Committee on Education and Labor Subcommittee on Health, Employment, Labor, and Pensions Hearing on The Proposed Delta/Northwest Merger: The Impact on Workers."

Committee Members had additional questions for which they would like written responses from you for the hearing record.

Congressman Hare asks the following question:

1. If the merger is approved, will you commit to allowing a fair and honest organizing campaign?

2. Why hasn't Delta agreed to meet with the IAM or AFA to discuss labor issues relevant in the potential merger? Will Delta commit to holding such a discussion before any merger is finalized?

Congressman Holt asks the following questions:

1. Have you responded to the Pension Benefit Guaranty Agency's (PBGC) letter to you dated February 28, 2008? If so, please provide us the committee with a copy. If not, please provide the committee with your reason for not responding.

[ii] Aviation Week & Space Technology Aerospace Sourcebook 2008. Pgs 364 & 372 the likely wave of mergers afterward, change anything? It seems more likely a continuation down the same potholeladen path.

2. Do you intend to honor the PBGC's request to meet with them to discuss protecting the retirement benefits of the over 160,000 employees and retirees in the four defined benefit (DB) plans your merged company will manage? If so, when do you plan to meet with them?

Please send your written response to the Subcommittee staff at by COB on Wednesday, August 13, 2008—the date on which the hearing record will close. If you have any questions, please contact us at 202-225-3725. Once again, we greatly appreciate your testimony at this hearing.

Sincerely,

GEORGE MILLER,
Chairman.

[The statement of Richard H. Anderson, submitted by Ms. Clarke follows:]

Prepared Statement of Richard H. Anderson, CEO Delta Air Lines, Inc.

Mr. Chairman and members of the Task Force, I want to thank you for providing me with the opportunity to address the Task Force about a topic that is critical to the future of every employee of Delta Air Lines, Inc. and Northwest Airlines. Last week we announced the merger of Delta and Northwest; a transaction that will create America's premiere global airline. This transaction comes at a unique and important time in the history of the airline industry and our two companies. The world is changing rapidly; business is conducted across all parts of the globe and people all around the world have unprecedented freedom and opportunity to travel abroad. The question facing the domestic airline industry is whether we will have companies with the global network and financial stability to compete in this new world against foreign carriers. Make no mistake about it; we face formidable competitors from overseas. Today foreign flag carriers carry more passengers to and from the U.S. and Europe and Asia than U.S. flag carriers. They are frequently funded by their government and benefit from regulatory policies that promote consolidation into a handful of strong competitors. The Open Skies agreements that have gone into effect recently offer domestic carriers excellent opportunities and daunting challenges as transatlantic competition will increase dramatically. The current order book for wide body Boeing and Airbus aircraft shows that U.S. carriers make up only about 5% of the buyers. We do not come here today looking for financial support, but we are looking for an opportunity to build a more financially stable U.S. airline with the global presence to compete with foreign carriers.

Our ability to remain strong financially and to compete internationally is severely impacted by the unprecedented rise in the price of oil. Continued prices of $110-$115 per barrel of oil will result in bankruptcy for some carriers and rob even the most financially sound carriers of profitability. In the last few weeks alone we have seen five carriers go into bankruptcy directly as a result of fuel prices, with four of them shutting down completely. Airlines are reporting first quarter results and the industry will likely report a loss for the quarter compared to profits for the first quarter of 2007, with the swing almost exclusively the result of increased fuel costs. We have seen the impact of bankruptcies on airline employees and customers. Since 2001, U.S. network carriers have shed more than 150,000 jobs and lost more than $29 billion. The management of Delta and Northwest believe that this merger will create a financially stronger airline, with a broad and diversified global route network that will help it weather the impact of fuel prices and the volatility of the domestic and world economies.

The Delta-Northwest combination will be a strong, U.S. based global competitor

The combination of Delta and Northwest will create a stronger company with route systems that complement each other and will provide an opportunity to offer travelers a global network that neither airline independently could offer. Northwest for decades has been America's premiere carrier to Asia; in fact it is the only U.S. carrier with a hub in Japan that provides a convenient point to connect to the most important destinations in Asia. As a result of restrictions in bi-lateral agreements between the U.S. and Japan, there is little chance that Delta would ever be able to offer comparable service. Conversely, Delta has invested substantially in building the leading service to Europe, the Middle East and Africa from the U.S., as well as a strong presence in Latin America. It is virtually impossible for Northwest to devote the capital necessary to acquire the planes to build such a franchise. As I indicated, the recent Open Skies agreements will permit any U.S. or European Union carrier to fly between the U.S. and the 27 EU member states. Already, Brit-

ish Airways, Virgin Atlantic and Ryanair have indicated that they will add or start new service between the U.S. and Europe, and Lufthansa is a growing presence in the U.S. The combined Delta/Northwest will generate approximately $ 1 billion a year in synergies and will have about $ 7 billion of liquidity together with the global route network that will allow us to compete in this new environment.

The merger has been structured to provide stability and benefits for employees

Delta has a uniquely cooperative relationship with its employees, and in planning this merger the impact on employees was uppermost in our minds. I have worked at many companies, in many different jobs, in both the public and private sectors and I have never seen an employer that respects and cares about its employees more than Delta Air Lines. Delta historically has had a culture that always tries to do what is best for its people. That is particularly important in view of the immense challenges that Delta and the rest of the airline industry have faced in recent years. Given these challenges, I believe it is even more important that we work collaboratively with all of our people so that we can fight and overcome them together. As we are beginning to see, companies and employees that fail to work together are at greater risk of failure. We believe that it is important that any transaction we undertake will benefit the people of both companies, together with our customers and other stakeholders. We believe that if we take care of our people, they will take care of our customers, and we will all benefit.

Here are just some examples of how this merger will benefit our people:

We will set aside sufficient equity so that all employees can have an unprecedented equity stake in the merged company.

We will move all employees, over time, up to industry standard pay and benefits.

We will honor our commitment to all U.S.-based, frontline employees to provide a process for the integration of seniority in a fair and equitable manner.

We will maintain the existing pension plans of both companies, both for current employees and for those already retired.

We will maintain our top tier profit-sharing plan and operational rewards program.

We have assured our frontline people that there will not be any involuntary furloughs as a consequence of the merger.

And particularly important in view of the impact on our industry of record fuel prices and economic uncertainty, we will strengthen our airline financially and provide opportunities for our people to benefit from our planned growth and future success.

With respect to whether there will be union representation in the various crafts or classes of employees after the merger of Delta and Northwest, we have pledged to respect our employees' preferences on that issue. The Railway Labor Act, as administered by the National Mediation Board, provides a time-tested process for determining employee choices regarding representation following an airline merger. We of course will respect that process and those choices. In the meantime, we have provided a written commitment to honor the existing Northwest collective bargaining agreements consistent with applicable law, until any post-merger representation issues are resolved.

Regarding seniority protection for the frontline employees of Delta and Northwest, Delta took the initiative last year when our Board of Directors adopted a policy to provide a process for fair and equitable seniority integration for employees of both companies in any merger. We pledged to use the seniority integration provisions from the former Civil Aeronautics Board's ruling in the Allegheny-Mohawk merger. Delta and many other carriers have used the Allegheny-Mohawk provisions in prior mergers, and they are also provided for in many collective bargaining agreements in the industry. Last December Congress passed legislation that required the use of the Allegheny-Mohawk seniority integration provisions in airline mergers. Delta successfully fought to assure that the law as passed protected all employees, whether union or non-union. We carried these principles through our negotiations with Northwest and have provisions in our merger agreement that provide for seniority protection.

Small communities will benefit from the merger

I would like to address another issue that I know is very important to this Committee and our customers: service to small communities.

Both Delta and Northwest are very proud of their long history of serving small communities. Northwest has often been the only way for people in small towns in the upper mid-west to connect with the rest of the country and the world. Similarly, Delta was founded in a small southern city and for years its focus was serving small southern communities. We know and understand the importance of air service to

the economic health of these communities. The phenomenal growth of Atlanta and the southeast in general is directly related to the superior service offered from Hartsfield Jackson Airport in Atlanta, largely by Delta. We intend to continue with these traditions and to remain the airline providing the most service to small communities from strategically located hubs in Atlanta, Minneapolis, Detroit, New York, Memphis, Cincinnati and Salt Lake City. This is not just customer service, it is good business—we have committed publicly that we will not close any hub as a result of this merger and to keep these hubs profitable we need the traffic from small communities around the country. A robust hub system is critical to the service desired by small communities. It is the most effective model to serve these communities as it allows us to use smaller aircraft to bring passengers from many small communities to the hub and offer broad connecting opportunities for these passengers. The combined Delta/Northwest will serve over 140 small communities, nearly twice the number served by our next closest competitor. The merged airline will offer new service to nearly 3,000 domestic origin and destination markets and over 6,000 new international markets, greatly expanding the ability of customers from small communities to reach every part of the country and the world on one airline.

As the economies of the world become linked more closely, we recognize the importance of air travel to the ability of small communities to compete and thrive in a world economy. This merger will open up a new range of options for our customers in small communities to put them in closer contact with the rest of the world. For example, the combined Delta/Northwest will provide customers in 48 small communities served by Northwest better access to 83 additional international destinations served by Delta today, while passengers in 51 small communities served by Delta will gain greater access to 20 Northwest international destinations. The combined airline will offer passengers over 390 global destinations on a single airline up from 250 on Northwest alone and 327 on Delta alone. Customers in small towns in the south will be able to fly to Japan and much of Asia with one easy connection on the same airline. That is not the case today. Similarly, customers in the upper midwest will have many more options to more destinations in Europe and Latin American than they do today. Since Delta and Northwest have focused their attention on different regions, there are few overlap routes and customers will gain the benefits of a larger combined network without any material reduction in services. However, providing service to any city, whether small or large, must make economic sense and the high cost of fuel for either Delta or Northwest is far more likely to result in a reduction or elimination of service than this merger.

The unprecedented rise in the price of fuel has created serious risks for the airline industry

No discussion about the current state of the airline industry would be complete without mentioning the devastating impact of the unprecedented rise in the price of oil. Every day we read that the price of a barrel of oil has hit new records. Over the last five years we have experienced a 28% annualized increase in oil prices and in the last 12 months alone, the price of a barrel has nearly doubled. Most analysts do not foresee the price of a barrel of oil going below $100 any time in the near future. What is less widely publicized is the equally dramatic rise in the cost of jet fuel extracted from oil. Since 2001, the cost of a gallon of jet fuel has increased over 500% and nearly doubled since December of 2006.

The airline industry is somewhat unique. When the price of oil rises and you go to fill your car up with gasoline, you pay more at the pump; there is little choice. In the airline industry, we are lucky if we can recover through fare increases even 50% of fuel price increases. The costs have to be made up somewhere else. Despite becoming more and more fuel efficient and obtaining more and more productivity from our employees and operations—Delta and Northwest have two of the lowest cost structures of the mainline carriers—the impact is dramatic. In 2003 fuel costs consumed 17 cents of every dollar of passenger revenue we received; in 2008 that number will be 43 cents. Every $1 increase in the price of a barrel of oil costs Delta about $60 million. The increase from $110 to $115 per barrel in the last couple of weeks alone will cost Delta over $300 million. As a result, there are fewer dollars left to improve passenger amenities, acquire new aircraft and provide better compensation and benefits to employees.

The employees in this industry have sacrificed time and time again. The dramatic rise in fuel costs has resulted in much of the cost savings our employees have generated through productivity and benefit losses being used to pay for fuel rather than to improve the product. In effect, it has eroded most of the sacrifices they have made to make their company viable and sustainable in the future. Merging Delta and Northwest will create a much more financially stable company with approximately

$7 billion in liquidity and $1 billion in annual synergies. The combined airline will be able to withstand an 80% greater increase in fuel price than either airline standing alone, and still maintain profitability. This financial strength and flexibility, much greater than either airline standing alone, will provide additional resources to help weather this unprecedented fuel cost environment and a softening domestic market.

This merger will be beneficial to customers

I have already touched on some of the key benefits our customers can expect such as significantly expanding the number of domestic and foreign locations that will be available from the merged airline. There will be other benefits such as a common frequent flyer program that will provide more opportunity to earn miles, more schedule options, and more efficient routes for connecting passengers as we optimize the combined hub structure. Of equal importance, the financial stability and flexibility the combined carrier will have will allow for re-investment in our product such as planes, in-flight services and reservation systems. For example, we have publicly declared our intention to exercise options to purchase up to 20 new wide body jets between 2010 and 2013 to upgrade our fleet for international flying.

We are mindful of the difficulties in combining the complex operations of two airlines and that other airline mergers have encountered problems that have inconvenienced customers. Delta and Northwest are committed to making this merger seamless and trouble free to our passengers. Both Delta and Northwest are members of the SkyTeam alliance and are used to working cooperatively. Our frequent flyer programs, customer lounges and IT systems have been partially integrated already. In addition, we will be able to build on the decades long partnership between Northwest and KLM (now a part of Air France) and the long standing relationship between Delta and Air France. All of these factors will help smooth the integration process for our customers.

The merger does not harm competition

Doug Steenland's written submission will deal extensively with the pro-competitive impact of this proposed merger and I will not repeat all of those points. I will simply say that these two airlines have complementary networks; Delta's domestic focus is in the east and mountain west while Northwest focuses on the upper midwest. There are only twelve domestic nonstop overlapping markets. Even these nonstop overlaps do not cause competitive problems, as Doug's statement indicates. Similarly, on connecting route overlaps, potential competitive effects are mitigated by the presence of low cost carriers, the relatively small market shares of Delta and Northwest, alternative airports and the likelihood that legacy carriers will expand into these markets. In addition, the transaction will generate significant efficiencies through such factors as more efficient matching of aircraft to routes that will enable the combined carrier to be financially stable and to offer a better product to customers, such as a broad global network and enhanced airport presence.

Conclusion

In closing, I would like to acknowledge the support we have received from Delta people throughout the company. It has been a little more than a week since we announced the merger. We have been traveling our system from Atlanta to Cincinnati to New York to Salt Lake City and I am happy to say that Delta people are very excited about what this means to them. I believe that Doug will report the same about Northwest's employees.

Last week we had a meeting in Atlanta attended by almost 2000 employees. Some of our people have traveled here today to show their support. Our people appreciate the fact that we are taking proactive steps to provide a more secure, financially stronger company in these times of increased foreign competition, record-setting fuel prices and a weakening economy. They don't want us standing still. We look forward to welcoming Northwest employees to join with their Delta counterparts to create and enjoy the benefits of being part of America's premier global airline.

[Whereupon, at 12:16 p.m., the subcommittee was adjourned.]

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